

FEDERAL LICENSING PROCEDURES FOR IMPORTING AND SELLING FIREARMS

4. G 74/9: S. Hrg. 103-162

Federal Licensing Procedures for Im... **RING**

BEFORE THE

SUBCOMMITTEE ON FEDERAL SERVICES,
POST OFFICE, AND CIVIL SERVICE

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

MARCH 26, 1993

Printed for the use of the Committee on Governmental Affairs



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CONTENTS

Opening statements:	Page
Senator Pryor.....	1
Senator Simon.....	4

WITNESSES

FRIDAY, MARCH 26, 1993

Stephen E. Higgins, Director, Bureau of Alcohol, Tobacco, and Firearms; accompanied by Daniel R. Black, Associate Director, Office of Compliance Operations	6
Don Cahill, Legislative Director, Fraternal Order of Police, on behalf of Dewey R. Stokes	24
Richard Gardiner, Legislative Counsel, Institute for Legislative Action, Na- tional Rifle Association of America; accompanied by Stephen Halbrook, Consulting Counsel	31

ALPHABETICAL LIST OF WITNESSES

Cahill, Don:	
Testimony	24
Prepared statement of Dewey R. Stokes.....	54
Gardiner, Richard:	
Testimony	31
Prepared statement	55
Higgins, Stephen E.:	
Testimony	6
Prepared statement	51

APPENDIX

Prepared statements of witnesses in order of appearance.....	51
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FEDERAL LICENSING PROCEDURES FOR IMPORTING AND SELLING FIREARMS

FRIDAY, MARCH 26, 1993

U.S. SENATE,
SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL
SERVICE, COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:07 a.m., in room SD-342, Dirksen Senate Office Building, Hon. David Pryor, Chairman of the Subcommittee, presiding.

Present: Senators Pryor, Stevens, and Simon (ex officio).

OPENING STATEMENT OF SENATOR PRYOR

Senator PRYOR. Ladies and gentlemen, our meeting will come to order. We appreciate all of you attending this morning. Today's hearing relates to the issue of Federal licensing procedures for importing and selling firearms.

Today the Subcommittee will turn its attention to a government function which has, I think, very critical implications for crime and public safety, namely, the Federal licensing process for firearms importers and dealers.

It was 5 years ago—it does not seem that long—when this same Subcommittee in this same hearing room held a hearing on how easy it is to become a firearms exporter. This morning we turn our attention to importing guns into our country and the license required for the dealers who sell these particular guns and who trade in this particular traffic.

The level of firearms violence in our country is clearly unacceptable. This past Wednesday, for example, the *Washington Post* reported that guns are involved in one of every four deaths a month of persons 15 to 24. Only car accidents cause more deaths in this age group.

Every night on the local news and the National news we see the same familiar scene: police officers milling around the body of a gunshot victim draped with a sheet, or loading into an ambulance a body bag containing a bullet-ridden corpse. These are the victims, oftentimes, of drug crimes and random violence which grows more deadly every day as the number of weapons in the hands of criminals continues at a steady and a rapid increase.

Past examination of this problem has often focused on the types of guns being used—sometimes the cheap Saturday night specials, sometimes the assault weapons—or it has focused perhaps on another issue relating to this whole subject, for example, the Brady

bill. These are worthy approaches, and I have supported them in the past.

Today we will examine another potential leverage point in our fight to reduce gun violence and criminal gun use. Today we will review the process for obtaining and maintaining a Federal license to import, sell, and trade in firearms. There are countless cases where the current laws have failed, and numerous reports suggest that there are serious problems in this particular area.

Take the case of McClinton Thomas, Jr., who operated as a gun dealer under the name "MQ Firearms." Mr. Thomas never opened a gun store. He didn't have to. Instead, he sold guns in the parking lot of the United Parcel Service building. Mr. Thomas' customers were, among others, two men who paid for their guns in cash, then distributed the guns to others at a Washington, D.C., crack house. Needless to say, Mr. Thomas did not keep records of his sales. What is truly remarkable, though—in fact, outrageous—is that Mr. Thomas was never convicted. He was never tried for a crime, apparently because prosecutors could not make a case.

There is also the case of two Miami gun dealers, operating under the name of "Commando's Gun Shop," who sold machine guns to operatives of the Medellin cocaine cartel.

In Los Angeles, Mr. Gustavo Salazar was a gun dealer who sold over 1,000 handguns from the back of his van in a notorious drug-infested neighborhood.

And what about those articles recently about the Ohio gun dealer? Yes, he had a license. He shipped his weapons to the Irish Republican Army.

What is consistent about each of these horror stories is that each of these so-called gun dealers had applied for and received a Federal firearms license to sell guns. There are hundreds of more stories of illegal gun sales by licensed dealers, and unfortunately, hundreds—probably thousands—go undetected, contributing greatly to the senseless crime and violence in America today.

If I might take your attention for the moment to the table before us, these are guns supplied to us this morning for our hearing, courtesy of BATF, the Bureau of Alcohol, Tobacco, and Firearms. Let me thank the Bureau for bringing those to our attention today and making them available.

I might point out to my colleague, Senator Simon, that each of these guns on this table are, in fact, legal guns. They are not illegal.

Incidents such as these that I have mentioned today lead us to believe that our controls over who receives Federal firearms licenses are dangerously inadequate. Firearms are sensitive, potentially dangerous items like alcohol or prescription drugs. Just as with these products, there is a strong public safety interest in maintaining a well-regulated industry for the distribution of these goods. It is amazing to me that Federal firearms licensing laws are so loose that it appears to be much easier to get a gun license today than it is to obtain a liquor license.

Now it appears that under the present licensing process, we have totally lost control over the firearms distribution industry. Make no mistake, dealing firearms is a very lucrative business in many situations. It is a business, in fact, that deals with a socially sensi-

tive and potentially deadly product that often contributes directly to the violence and crime in America. We simply cannot afford to continue allowing this industry to operate without stronger regulation. I truly believe that the current degree of regulation does not reflect the sensitivity of the product. Until we have better control over who is selling guns today, we can have little hope of restricting violent criminals from obtaining any firearms they choose.

We are very fortunate today to have a Senator who has been attuned to the problems associated with firearms licensing long before the rest of us began to understand it. I speak of Senator Paul Simon of Illinois. Senator Paul Simon has studied this issue thoroughly and with a great commitment to easing the burden of misery our Nation suffers due to gun violence. Senator Simon has introduced a thoughtful, comprehensive piece of legislation to reform the Federal firearms licensing process which I hope we will discuss this morning.

Before getting to solutions, though, we must first understand the problem better and hear suggestions for reform. Helping us do that will be Mr. Stephen Higgins, the Director of the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms, BATF, which administers the Federal licensing process. Also here to give their perspectives on the issue are Mr. Don Cahill, representing the Fraternal Order of Police.

Let me mention that Mr. Dewey Stokes, the National President of the Fraternal Order of Police, was going to be here today. He is still in Ohio. He has the flu, and he is sending his worthy replacement, Mr. Cahill.

Mr. Richard Gardiner, legislative counsel for the Institute of Legislative Action for the National Rifle Association will be on our third panel.

We welcome our witnesses this morning.

PREPARED STATEMENT OF SENATOR PRYOR

Today the Subcommittee on Federal Services will turn its attention to a government function which has critical implications for crime and public safety, namely the Federal licensing process for firearms importers and dealers.

The level of firearms violence in our country is clearly unacceptable. Just this past Wednesday, for example, the *Washington Post* reported that guns are involved in one of every four deaths a month of persons age 15 to 24. Only car accidents cause more deaths in this age group.

Every night on the local news we see the same familiar scene as well: police officers milling around the body of a gun shot victim draped with a sheet, or loading into an ambulance a body bag containing a bullet ridden corpse. These are the victims of drug crimes and random violence which grows more deadly every day as the number of weapons in the hands of criminals continues to steadily increase.

Past examination of this problem has often focused on the types of guns being used—cheap Saturday night specials or assault weapons, for instance—or it has focused on a waiting period as in the case of the Brady Bill. These are worthy approaches which I have supported in the past.

Today we will examine another potential leverage point in our fight to reduce gun violence and criminal gun use. Today we will review the process for obtaining and maintaining a Federal license to import or sell firearms. There are countless cases where the current laws have failed, and numerous reports suggest that there are serious problems in this area:

Take the case of McClinton Thomas, Jr., who operated as a gun dealer under the name "MQ Firearms." Mr. Thomas never opened a gun store. Instead, he sold guns in the parking lot of the United Parcel Service building. Mr. Thomas' customers were, among others, two men who paid for their guns in cash and then distributed the guns to others at a Washington, D.C., crack house. Needless to say, Mr. Thomas

did not keep records of his sales. What is truly outrageous, though, is that Mr. Thomas was never convicted, never even tried for any crime, apparently because prosecutors could not make a case.

There is also the case of two Miami gun dealers, operating under the name "Com-mando's Gun Shop," who sold machine guns to operatives of the Medellin cocaine cartel.

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How about the articles about the Ohio gun dealer who shipped weapons to the Irish Republican Army.

What is consistent about each of these horror stories is that each so-called "gun dealers" applied for and received a Federal firearms license to sell guns. There are hundreds more stories of illegal gun sales by licensed dealers, and unfortunately, hundreds—possibly thousands—more go undetected, contributing greatly to the senseless crime and violence in our country today.

Incidents such as these lead me to believe that our controls over who receives Federal firearms licenses are dangerously inadequate. Firearms are sensitive, potentially dangerous items like alcohol, or prescription drugs. Just as with these products, there is a strong public safety interest in maintaining a well regulated industry for the distributing these goods. It is amazing that Federal firearms licensing laws are so loose that it appears to be easier to get a gun license today than it is to obtain a liquor license.

Alcohol, and prescription drugs are abundantly available to law-abiding, responsible adults who have legal purposes in mind. Likewise, legitimate hunting and sporting weapons should be abundantly available to law-abiding, responsible adults pursuing legal ends.

It appears, however, that under our present licensing process, we have lost control over the firearms distribution industry. Make no mistake, dealing firearms is a very lucrative business. It is a business that deals with a socially sensitive and potentially deadly product that often contributes directly to the violence and crime in our country. We simply cannot afford to continue allowing this industry to operate without stronger regulation. I truly believe that the current degree of regulation does not reflect the sensitivity of the product. Until we have better control over who is selling guns today, we can have little hope of restricting violent criminals from obtaining any firearms they choose.

We are fortunate to have with us today a Senator who was attuned to the problems associated with firearms licensing long before the rest of us began to understand it, Senator Paul Simon of Illinois. Senator Simon has studied this issue thoroughly and with a great commitment to easing the burden of misery our Nation suffers because of gun violence. Senator Simon has introduced a thoughtful, comprehensive piece of legislation to reform the Federal firearms licensing process which I hope we will get to discuss today.

Before getting to solutions, though, we must first understand the problem better and hear suggestions for reform. Helping us do these things today are Mr. Stephen Higgins, the Director of the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms, or B-A-T-F, which administers the Federal licensing process. Also here to give their perspectives on the issue are Mr. Dewey Stokes, National President of the Fraternal Order of Police, and Mr. Richard Gardiner, Legislative Counsel for the Institute for Legislative Action of the National Rifle Association. Gentlemen, welcome.

Senator PRYOR. I yield to my colleague, Senator Simon.

OPENING STATEMENT OF SENATOR SIMON

Senator SIMON. I thank you, Mr. Chairman.

First of all, I thank Senator Pryor. Whether it is the problem of money being wasted on consulting fees or problems in the pharmaceutical industry, he has touched on one problem or another that has been really important to our country and to the Federal Government.

I also want to apologize to Mr. Higgins and Mr. Black. I am going to have to duck just for a few minutes to the Foreign Relations Committee for a nomination, and I want to particularly com-

mend the Bureau of Alcohol, Tobacco, and Firearms for their work. I have been very uniformly impressed by what they are doing.

Let me first, Mr. Chairman, if I may, just describe briefly the bill that I have introduced. It would increase the license fee for firearms dealers. Right now you pay \$30 for 3 years, or \$10 a year. It would raise that to \$750.

Incidentally, I thought I would run into a great deal of opposition from firearms dealers. I am getting phone calls from firearms dealers saying, "I am tired of people selling firearms out of the trunks of their cars when I am a legitimate dealer."

It would eliminate the requirement that is there right now that unless a license is rejected in 45 days, it has to be granted. It would, third, require those who are licensed to comply with firearm trace requests. If BATF calls right now to a firearms dealer and says we would like information about such-and-such a weapon, the dealer has a perfect right to deny that request. Most of them cooperate; some do not. It requires a compliance with State and local laws before you can issue a license.

It eliminates the restrictions on compliance inspections. Right now you are limited by law, believe it or not, to one inspection a year. That doesn't make sense.

It requires dealers to report the theft or loss of firearms. And, among other things, it also criminalizes the sale of firearms or ammunition when there is reasonable cause to believe the weapon will be used in a crime of violence.

And if I may contrast, Mr. Chairman, that with the laws of Canada. First, let me outline what you have to do in Canada just to possess a firearm because the requirements for dealers are on top of this.

First of all, there is a 28-day waiting period. Applicants have to list two references when they apply for firearms. You pay a fee of \$25 to \$50; this is for a 5-year period. You have to present evidence that you have successfully completed a course and passed the test in safe handling and use of firearms. And you have to complete a 60-question form to get it.

Now, every dealer has to do that, along with every owner of firearms. For dealers, you have to undergo an on-site inspection of the business. I don't mean this disrespectfully to our friends in BATF, but in the last 10 years, there has been a 59 percent growth in the number of firearms dealers, a 13 percent drop in the number of people to inspect.

The applicant has to demonstrate that he has or she has a license to own a gun, and every employee who touches a gun has to have one of those licenses.

You have to follow any directive from local law enforcement people. If the local law enforcement people say you need a burglar alarm, you have to put a burglar alarm there.

There are 8,961 dealers in Canada. Canada has about 10 percent of our population. We have 270,000 dealers in the United States of America.

In 1991, in Canada, there were 270 firearm-related homicides in all of Canada. In Chicago, Illinois, we had 927 firearm-related homicides in 1991.

Clearly we can do better. The people of Canada are good people, but they are no better than the people in Arkansas and Illinois and in the United States of America.

Let me just add one of the encouraging things—just chatting briefly with our friends from the National Rifle Association, while I have been on a collision course generally with the National Rifle Association, I think there is a disposition on their part to do something about this. They recognize that we really have to change our laws, and this is one of the areas where, without restricting the rights of legitimate sports people and responsible citizens, we can do better. We just don't need to tolerate what we have tolerated.

Again, I want to commend you. David Pryor is one of the best members of this U.S. Senate, and one of the reasons is he has that sense of what is important to the Nation. And this is one of those things.

Senator PRYOR. Thank you, Senator Simon. We know that you will have to go, but we hope you won't be gone long and that you will come back because we have some very good testimony.

Senator SIMON. I am going to come back just as quickly as I can.

Senator PRYOR. Thank you very much for your statement.

Mr. Higgins, we are glad you are here this morning. We look forward to your statement. I think that you have a statement. We are going to place the full content in the record, and I think you are prepared to summarize your statement that we are placing in the record. Thank you for being here.

TESTIMONY OF STEPHEN E. HIGGINS,¹ DIRECTOR, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS; ACCOMPANIED BY DANIEL R. BLACK, ASSOCIATE DIRECTOR, OFFICE OF COMPLIANCE OPERATIONS

Mr. HIGGINS. That is correct, Mr. Chairman, and thank you for the opportunity to appear today and to testify concerning our oversight of firearms importations and the thrust of our firearms compliance program.

I will open by focusing on the issue of firearms importations. Any person who desires to commercially import firearms into the United States must first obtain a Federal firearms license from us, which we issue under the authority of the Gun Control Act of 1968. If the imported firearms are for resale, the importer must also register with ATF under the Arms Export Control Act.

The importer must then apply for and receive an import permit from ATF before importing any firearms. The application must specify the foreign producer, supplier, and the type and quantity of firearm to be imported. And if approved, the permit is valid for 1 year.

Only those firearms that are deemed to be particularly suitable for or readily adaptable to sporting purposes may be imported under the Gun Control Act. Any firearm failing to meet this criteria is denied entry. You may recall it was this "sporting purpose" criteria that led to the ban on the importation of semi-automatic assault weapons back in 1989.

¹ The prepared statement of Mr. Higgins appears on page 51.

In addition, we review import permit applications to ensure that the firearms were neither produced in nor shipped from a proscribed country. That list of proscribed countries is maintained by the Department of State.

The importer must then present the approved permit to Customs officials, and if everything is in order, the release document is signed by both Customs and the importer and then mailed to ATF.

Each imported firearm, like domestic firearms, must be marked with all marks of identification required by law. Those markings are to ensure their traceability in the event of their use in a criminal activity.

All firearms, whether imported or domestic, are subject to the full range of regulatory controls contained in 27 CFR Part 178, including all the recordkeeping requirements and the restrictions on distribution.

Since 1986, the number of licensed importers has remained at a fairly constant level of approximately 1,000. In comparison, the total number of entities licensed to manufacture firearms in the U.S. is also approximately 1,000. Statistically, however, imported firearms make up about 20 percent of the total number of firearms placed into the U.S. marketplace; 1990 was the latest data we had for that.

I would now like to turn to our current firearms compliance program. Since 1987, the firearms licensee population has increased by over 21,000 licensees, from 262,000 to almost 286,000. We anticipate an approximate increase of 30,000 licensees this fiscal year alone, due in large part to recent national attention about how easy it is to get a license. And the applications are coming in since those programs at the rate of about 1,500 applications a week. It used to be around 500. ATF has the equivalent of 209 inspectors regulating this entire universe of licensees.

In February of 1992, we implemented Operation Snapshot. It is an inspection program which is a nationwide random sampling of firearms dealers. The primary function of the program is to reveal to us some informational data about the Federal firearms licensee population.

From this program, we estimate that more than 72 percent of the licensed firearms dealers have their businesses located in their residence. Further, nearly one-third did not engage in any business during the preceding 12 months. Of the remaining two-thirds, a majority conducts a minimal amount of business.

In fiscal year 1993, we plan to conduct approximately 5,000 full field application investigations and 25,000 firearms compliance inspections. These figures represent a 215 percent increase over 1989. While our inspections attempt to target those licensees actively engaged in business, we will undoubtedly miss some licensees who should be inspected.

As mentioned earlier, the number of licensed applicants is still growing rapidly. In order to address the increasing number of licensees and to stem the rising tide of violent crime, we have developed a multi-faceted initiative that is designed to better ensure that application and licensing requirements established by the Gun Control Act are strictly complied with.

Preliminary investigations are conducted on all original applications for Federal firearms licenses. Full field investigations are conducted as warranted by the results of the preliminary investigation. These investigations ensure that the applicant intends to engage in a firearms business and has a premises from which to conduct that business.

Compliance with State and local laws and ordinances governing a firearms business is not, as has been mentioned, a precondition to the issuance of a Federal firearms license. State and local officials look to ATF for assistance on these cases; however, under current law, ATF must issue licenses even in situations where we believe that the business will be operated in violation of State or local law.

ATF also cannot deny an application if, for example, an applicant has an arrest record for violent or drug-trafficking offenses but no felony convictions, or has a history of mental illness but has never been adjudicated mentally defective.

Because positive identification of applicants can only be verified through full field investigations, we will conduct full field investigations on approximately 17 percent of the applicants in fiscal year 1993.

Currently, all applicants receive a computerized criminal history check. However, criminal records checks may not detect fraudulent submissions or other possible bases for denial of a license such as someone who has been adjudicated a mental incompetent, someone who is an unlawful user of a controlled substance, or an alien who is unlawfully in the United States. You can't find that from the record check.

The license fee is not sufficient to discourage application by those individuals who desire to purchase firearms at wholesale prices for their personal use or who may, under certain circumstances, use a license to circumvent State or local law. Additionally, the \$10 fee doesn't cover even the cost of administering the license program.

Federal firearms licensees are frequently associated with the distribution of guns used in criminal activity, but that is not to suggest, however, that all such licensees are violating the law. Most are law-abiding citizens.

Therefore, ATF has identified 43 high-crime areas for intensified inspection activity. Compliance inspections will be conducted of all Federal firearms licensees located within these areas whose licenses are due for renewal in 1993.

Further, ATF is using data from our National Tracing Center that identifies the last licensee involved in the distribution chain of firearms traced from high-crime areas. Inspections of these licensees and those located in proximity to them are being conducted to disclose potential traffickers of firearms into those high-crime areas. In all inspections, we attempt to identify firearms purchases made by armed career criminals, narcotics traffickers, and persons with felony convictions.

Our efforts to ensure compliance with recordkeeping requirements are hindered by the fact that we are limited to one warrantless inspection within a 12-month period. Proper records are essential to the firearms tracing program, and Operation Snapshot disclosed that about one-third of the licensees have some type of recordkeeping violation. This indicates a potentially serious record-

keeping problem with the FFL's which could inhibit the traceability of those firearms.

In summary, the number of Federal firearms licensees has grown significantly over the past 20 years. And while the population of FFL's actively engaged in the business is much smaller, we don't have an effective way to focus upon that group. We have tried to use innovative approaches to target those most likely to violate criminal law, and in so doing have assisted in the fight against violent crime. Still, we have got to admit that our efforts will not provide the degree of effective regulation that I think we all want.

Thank you for the opportunity to express our views, and we will be happy to answer any questions you may have.

Senator PRYOR. Mr. Higgins, thank you very much.

I am trying to learn a little about this whole area, and I have had the opportunity to read some of the publications recently that people can buy on their newsstands, and we will talk about some of those.

Let's turn to our charts immediately here. We appreciate the *Washington Post* recently using charts. We have lifted them out and blown them up.

The chart ¹ on the right says that BATF is able to inspect less than 10 percent of all of the licenses, so we have roughly 280,000 licenses out there, people who have applied for and received a license.

Now, are we saying that only about 25,000, 28,000 or so have been inspected? What are we saying here?

Mr. HIGGINS. This year we plan to conduct 25,000 firearms compliance inspections and 5,000 full field application inspections. So that is roughly 10 percent.

Senator PRYOR. So what about the other 90 percent of those requesting a license?

Mr. HIGGINS. Those 90 percent will not get an inspection from ATF this year. Theoretically, some of them may go into business and then go out of business within 4 or 5 years and never be inspected.

Senator PRYOR. Is this a shortage of people power? Is this a shortage or lack of computer information? What is the trouble here?

Mr. HIGGINS. The shortage would be in terms of the number of inspectors. We have roughly 200, 209 inspectors to look at this number of licensees. One issue is whether we should have this many licensees. Whether we should increase staffing is an issue that should be resolved after we decide what the appropriate level of licensees should be.

Senator PRYOR. Now, I want to know also a little about the history of this provision in the law. It has been brought up, I believe by Senator Simon, this morning. There is a provision in the law, to the best of my understanding, that if there is a person doing business out there in the buying and selling of firearms, perhaps legitimately, perhaps illegitimately, and you have reason to suspect that this person needs to be investigated or inspected more fully, is it

¹ The chart referred to above appears on page 61.

true that you can only do this once per year? Am I correct or am I wrong in that assumption?

Mr. HIGGINS. We can do one warrantless compliance inspection a year. If we want to go back to follow up to see if, for example, recordkeeping violations have been corrected, if we could not get the dealer to allow us voluntarily to come, we would have to get a warrant in order to do that.

Senator PRYOR. Now, why is that provision in the law?

Mr. HIGGINS. That was written into the law in 1986 and I think Congress felt that going in there more often would be unnecessarily disruptive to the licensee's business.

Senator PRYOR. One more question on the first chart we referred to. How long would it take to inspect all of the 280,000 licensees out there and to do the type of workup we should do? How long would it take to inspect them all?

Mr. HIGGINS. It would take us roughly 10 to 12 years to get around to all of them with the present level of resources.

Senator PRYOR. All right. Let's go to the second chart ¹ here, the one nearest me, the one on your left. Now, we are talking about a fairly rapid rise, about a 99 percent growth in the number of licenses, I believe, since 1970. Is that correct? Why are we seeing such a great desire to have a Federal license to buy and sell firearms?

Mr. HIGGINS. I think there are a number of reasons, and I will give you some. Given the low rate of the license, \$10 a year for 3 years, getting a license enables you, for example, to buy firearms, at wholesale. So you have some people who want to do it in order to get discounted weapons.

You have others who would want to do it to avoid provisions such as the waiting period or the Virginia State law which will limit handgun purchases to one purchase every 30 days. If you are a licensee, you don't have such restrictions placed on you. So you have some people doing that.

Finally, I think you have those who have seen the television programs and the newspaper articles, like the *Washington Post*, and said, "This is so easy. I might as well go out and get one," so they apply. You have all these factors working together.

Senator PRYOR. As I mentioned before, I had the opportunity to look at some of the magazines. By the way, this is a new world for me. I have a couple of them. You just go to the newsstand. One is *Combat Handguns*. One is *Guns & Ammo*. In *Guns & Ammo*, there is a fascinating article, one of the lead articles, that says the American Association of Retired Persons is anti-gun. That is the AARP. I didn't know they were anti-gun. I didn't know they were until I read this article.

But, here, I thought it might be speaking of the ease with which we get these licenses, there is a neat little want-ad here. It says, "Is your wife ticked because you spend too much on guns? Save dollars, and make dollars, too, by becoming a licensed gun dealer. Complete FFL"—Federal firearms license—"kit includes how to get

¹ The chart referred to above appears on page 62.

the best buys on guns," and it tells you where to send for all of the information.

THE ADVERTISEMENT FROM APRIL 1993 ISSUE OF GUNS & AMMO

IS YOUR WIFE TICKED because you spend too much on guns? SAVE \$\$ (and MAKE \$\$ too!) by becoming a licensed gun dealer! Complete FFL Kit includes: "How To Get The Best Buys On Guns." Licensing Forms, Regulations, Wholesalers, Professional Advice. GUARANTEED! \$3.95 + \$.50 S&H. RJ PROFESSIONAL SERVICES, 3440 Youngfield #204-C, Wheat Ridge, CO 80033.

There is a whole world out there of items basically to this market for those who are not only dealing but using guns. And, once again, we assume that most of these people are legitimate, that they are law-abiding citizens. However, this hearing is about the guns that get in the hands of those who are not law-abiding.

Here is another interesting magazine, *Combat Handguns*. It has all kinds of things. It has camouflage suits and all sorts of ways you can hide guns in your clothing and strap certain pistols or articles to your body, all sorts of things that I never think about, but I am going to start thinking about more.

Now, this one has a neat little want-ad also. It is a free Federal firearm licensing kit. It includes complete wholesaler list, regulation, concealed weapons permit guide, all States. This is another world that I think we are going to have to start dealing with and doing something about.

THE ADVERTISEMENT FROM COMBAT HANDGUNS

BEST FFL LICENSING KIT!!! Includes complete wholesaler list, regulations, forms: \$6.95!!! Concealed Weapons Permit guide, all states: \$5.95!!! Transporting Firearms guide: \$4.95!!! All Three: \$9.95!!! JAM Enterprises, P.O. Box 5062, Dept. CH, Sarasota, FL 34277-5062.

I also asked my staff to obtain some forms for us. Here is a form. If a farmer in Arkansas or in Illinois is applying for any type of Federal subsidy whatsoever for an agriculture loan or for any sort of a subsidy, here are the forms that the farmer and/or his bookkeeper, or whoever it might be, the accountant, has to fill out.

Here are the forms that a potential home buyer must fill out. Right here, these are all the forms today that the home buyer must fill out and have notarized.

Here is the form to get a Federal firearms license, right here, just four pages.¹ It is only a yellow sheet. Back here, almost as an afterthought, on the 20th and 21st areas of concern, A through D, it asks if you are a legal or illegal alien, if you are under 21, if you have ever been adjudicated as a mental defective, or if you have been committed to a mental institution.

If they say yes, I have been committed to a mental institution, what would that do to their application hopes? Would they get a license?

Mr. HIGGINS. Well, that would signal us to get more information. We would determine, for example, if they had been properly treated and corrected, and if the adjudication had been overturned. If that be the case, then they would still be eligible for a license. But

¹ The form referred to above appears on page 67-70.

if not, if they were adjudicated mentally defective, they would not get a license.

Senator PRYOR. There is no way possible that BATF has the opportunity to visit personally with an applicant for a Federal firearm license; is that correct? You can't visit every person.

Mr. HIGGINS. Not if we are to do the other jobs that we have, no.

Senator PRYOR. Now, we have talked about the qualifications on the form that a person has to satisfy to obtain a license. Would you mind stating for the hearing record some of the factors which might cause a person to be a risk if he or she were a licensed importer or dealer which do not appear on this particular form supplied by BATF?

Mr. HIGGINS. Yes, there are a number of things that you would be interested in. A person could have a series of arrests for, say, felony-type charges, and these could be plea-bargained down to misdemeanors, which would not be disabling. You would see a history of violent, and perhaps illegal activity. But that person would not be disabled.

You could also see someone who had been voluntarily committed to a mental institution, and people might have questions about whether or not that person would be a risk.

Senator PRYOR. The people in these two categories would still qualify.

Mr. HIGGINS. Would still qualify for a license.

Senator PRYOR. Not only a license to own a gun, a license to trade in guns?

Mr. HIGGINS. Right, to sell guns to others, interstate.

Senator PRYOR. What about the amount of discretion that BATF has in allowing a license to go forward or not to be issued? What is your discretion?

Mr. HIGGINS. Discretion is very much limited by law. In other words, there is an affirmative direction to us to issue a license if a person is at least, for example, 21 years of age, is not prohibited—and you have listed some of the prohibitions, can't be a convicted felon, can't have been adjudicated mentally incompetent, can't have violated the Gun Control Act. You must also have some type of business premise, but the law doesn't specify what that is. That can be dealing out of the house.

Assuming that he meets this limited criteria, we have to issue a license. We have no discretion. And we are required to issue that license in 45 days.

Senator PRYOR. Now, who has the burden of proof? Does the applicant have the burden of proof that he or she would be qualified to have a license? Or does BATF have the burden of proof to go forward to show this person should not receive the license?

Mr. HIGGINS. Well, we have the ultimate decision as to whether to issue the license, so I guess you could say that burden is on us. We require them to fill out the form that you held up in which they supply the information under penalties of perjury. So they have an obligation to be forthcoming in that or face charges for falsifying a form. But the ultimate decision is ATF's. We have to decide. And if we have any reason to believe through criminal history checks or any other information that the person is not eligible, then we have to prove it.

Senator PRYOR. All right. I want to go back once again to the area of discretion that you have. You stated, I believe, in your opening statement that even though you might suspect that an applicant for a Federal license to trade in the gun trade was in violation of Federal and State laws, that you would have no discretion in not allowing that license to go forward. Is that correct?

Mr. HIGGINS. Yes, for violation of State or local law, that would be the case. If someone is going to operate in an area that requires a business license or is zoned to preclude firearms licensing as a legitimate business, we are still obligated to issue the license. But what we try to do in those instances is to give that information to State and local authorities so that they can make a visit and explain what their laws are.

If we come back later and find that somebody is not operating because they can't get the license, we can use that later as grounds to go against their license. But that assumes we have time to go back.

Senator PRYOR. Let's talk about how you might revoke a license. How do you go about revoking a dealer's license?

Mr. HIGGINS. We have to show that they have willfully violated some provision of the Gun Control Act with respect to their activities, whether they've allowed records to be falsified or whatever. We have to show that the violation is willful—that they knew the requirements and specifically ignored them. Then we have to give them notice. We have to have a hearing. It is a rather extensive process. There are a lot of built-in safeguards for the dealer, including the fact that they can have a review in court after we have completed the administrative process.

Senator PRYOR. For each applicant, how much does it cost to inspect or to clear this individual and issue the license?

Mr. HIGGINS. I must qualify my response by acknowledging we do very little in terms of the original qualification. We make phone calls and conduct criminal history checks. It is costing us about \$100 per applicant. If we were to do what we would say is a full field application investigation, visit, check for all the disabilities, see the premises, and then perhaps do one inspection a year, that would cost us in the neighborhood of, say, \$400 to \$500 a year. So somewhere between \$100 and \$400 to \$500 depending upon the extent of the check.

Senator PRYOR. Let's be conservative, then, and let's say it costs the government \$100 for each applicant, and the applicant pays \$30, or \$10 a year. I believe it is \$10 a year for 3 years, \$30 for a license, if I am not mistaken. We are subsidizing, really, to the extent of about \$70 for each applicant. Is that correct? They are being subsidized by the rest of the taxpayers.

Mr. HIGGINS. That is the math. I won't go into whether that is a subsidy.

Senator PRYOR. What has happened to the level of the number of employees within your agency? If you could just give us a thumbnail sketch for the last 10 years?

Mr. HIGGINS. The number of overall employees in the Bureau has gone up over the past 10 years. The overwhelming majority of that growth has been in law enforcement programs with respect to

the war on violent crimes and drug-trafficking-related firearms violations.

With respect to the compliance side, which is the side that inspects the firearms industry and other industries, that has stayed fairly flat, no growth there at all.

Senator PRYOR. You not only license firearm dealers, you license liquor stores, the wholesaler?

Mr. HIGGINS. We license down to the wholesale level on the liquor side, and then we sell stamps to the others.

Senator PRYOR. What's the difference in applying for a liquor license and a gun license to buy and sell guns?

Mr. HIGGINS. Well, yes, it is much more difficult to get an alcohol wholesale permit, for example. You have to notify the government as to your source of funds. You have to show that you have a source of supply. You have to show that by record and reputation, which goes a lot beyond whether you have actual convictions of laws, you have to show by record and reputation that you are likely to maintain business in accordance with our laws. You can't operate in violation of State or local law. You have to have a business premise and a source of supply.

There is an extensive requirement that you have to meet, and we do a complete background investigation of everybody who is connected and the source of funds. So it is a lot different.

Senator PRYOR. So it is a lot more difficult to get a liquor license than a license to buy and sell firearms. Is that the bottom line?

Mr. HIGGINS. It is much more difficult.

Senator PRYOR. Now, how did David—

Senator SIMON. Could I interrupt?

Senator PRYOR. Yes, sure.

Senator SIMON. If my colleague would yield, on that liquor license—on the gun license, you are limited by law to one inspection a year. Are you limited by law to any number of inspections on a liquor license?

Mr. HIGGINS. No limit, no. You could go in as many times as you needed to.

Senator SIMON. Thank you, Mr. Chairman.

Senator PRYOR. One final question, and then I am going to yield to my colleagues. How did David Koresh, who is now in Waco, obtain his weapons? Do we know, or are you at this point at liberty to divulge?

Mr. HIGGINS. We know, but I am not at liberty to discuss it at this point, if you can understand. It is because it is still an ongoing situation, and I think the important thing is to resolve this safely. And anything that we discuss has a way of finding its way—

Senator PRYOR. By the way, I want to help. I don't want to be hurtful.

Mr. HIGGINS. I understand.

Senator PRYOR. I want to assist in any way.

Let me, if I might, Senator Simon, yield to Senator Stevens, our ranking member. He has been here, and he has not made his opening statement. I thought you might like to make an opening statement or ask any questions at this time.

Senator STEVENS. No, I have no opening statement. I am sorry I was late. I had a group of Alaskan children that came all the way

down here that wanted to know what we were doing here, so I took a little time with them.

Tell me, Mr. Higgins, we don't fingerprint people who make applications for the Federal firearms license. Why not?

Mr. HIGGINS. We don't. It has been more a matter of cost and the time it would take to do that in order to get it done within 45 days. So it is a combination.

I think legally, if we were to stretch the statute, we probably could do it. We require fingerprints for the purchase of automatic weapons as an example. Cost and time are prohibitive because we have in excess of 280,000 licensees. And there is not just one owner per license. You have to fingerprint everybody who is involved. So that is basically the reason we have not, Senator.

Senator STEVENS. How many of these arms I see on the table are imported?

Mr. HIGGINS. The AK's and Styr Aug are and, just roughly looking there, maybe half. They are all legal weapons that are on the table.

Senator STEVENS. Don't you have the authority to determine whether they are for sporting purpose?

Mr. HIGGINS. Yes, for imported weapons.

Senator STEVENS. ATF has decided all of those are for a sporting purpose?

Mr. HIGGINS. No. The AK, for example, the non-sporterized version of the AK, was banned effective 1989, if you recall that banning.

Senator STEVENS. Yes.

Mr. HIGGINS. So those cannot be imported now, but there are literally thousands of them that still circulate in the market in the United States.

Senator STEVENS. The ones that came in, you still had to have the authority even then to define whether they were for a sporting purpose, didn't you?

Mr. HIGGINS. Still do; yes, sir.

Senator STEVENS. But did you or your predecessor decide they were for a sporting purpose?

Mr. HIGGINS. When they originally started coming in, some as early as 1968, we looked at very few of these weapons because there weren't many of them here. Some of the guns, for example, the Street Sweeper there, we decided in the mid-1980's were not for sporting purpose. So we kept those from being imported. As to the other types of weapons, in 1989, when we saw how many were beginning to come here and how many were showing up in crimes, we established a study group to survey the features, and determine whether they were actually being used for sporting purpose.

As a result of that study, we concluded that there were a range of weapons—I think it was 40 to 45—that were not being used for sporting purpose and weren't intended for that. So we banned those weapons.

Senator STEVENS. I have got to be classified as a gun nut, coming from where I do and hunting the way I do and having the number of guns that I do. But I have never quite understood how having the authority to ban these weapons we face this fantastic flood of

them from offshore, none of which, I would say, could be sporting weapons, used for sporting purposes.

Now, there is another category—what is it?—something antiques or curios or something.

Mr. HIGGINS. Right.

Senator STEVENS. Relics?

Mr. HIGGINS. Curios and relics.

Senator STEVENS. A brand new weapon is not a relic, and it is not an antique. I am very supportive of your agency, but I don't understand how this flood hit us when you had the authority to just not approve their importation. Did these come in illegally?

Mr. HIGGINS. The weapons that we have here didn't come in illegally. The imports came in—

Senator STEVENS. You had the power to block them, but you hadn't blocked them. Your agency hadn't blocked them, right?

Mr. HIGGINS. Yes, we—

Senator STEVENS. My friends here want to give more authority to the government to do things, and I don't think the government has used the authority it has had to prevent the flood of these weapons coming into our country. Is that unfair?

Mr. HIGGINS. No. I don't say it is unfair. I say that since 1989, when we felt we had enough information, based on what they were actually being used for, to ban them, we did. It has been argued in court that we went too far. We have been successful in defending our action, but I don't think it was that clear that we had the authority to do that. We felt we moved when we had sufficient information to do so. You could argue that we should have moved faster, and I can't say that is not—

Senator STEVENS. Now, what is this Rambo-looking thing out here that has got this beautiful hunting sight on it? What is that for?

Mr. HIGGINS. That is the .50-caliber that people have been talking about. It is a semi-automatic weapon that is legally available in the United States.

Senator PRYOR. It is an Arkansas squirrel gun, I guess. [Laughter.]

Mr. HIGGINS. I have a daughter who lives there, so I hope not.

Senator STEVENS. Well, you know, we find ourselves in the position of protecting the rights under the Second Amendment, but I am—that was made in the United States, wasn't it?

Mr. HIGGINS. Yes, and there is no sporting test for guns made in the United States.

Senator STEVENS. I understand that. But there still is the right to license the people who sell them, and we have some restrictions on who can buy them. But let's go back to my original question. You really have a problem of financing in terms of some of the authorities you have already, for instance, fingerprinting, right?

Mr. HIGGINS. Right.

Senator STEVENS. How much would it take for you to be able to fingerprint these applicants? How much money?

Mr. HIGGINS. I can provide you that.

Senator STEVENS. All right. I would like to see it.

Mr. HIGGINS. Yes, sir.

Senator STEVENS. I just somehow or other think that people are inclined to sweep under the rug the Second Amendment rights of those of us who do have, I feel, legitimate rights to have guns because of those who are abusing their rights and, to a great extent, those who are abusing these things that were made obviously for warfare that were coming in from overseas.

I will have some other questions later, Mr. Chairman. I do thank you, and I want to tell you we all watch each night the agents of your agency that are down there in Waco. I hope you would tell them that I think the American people have a great not only respect for them, but sympathy for them and their families and what they are going through to try and bring some sense into the Waco situation. So thank you for what you are doing.

Senator PRYOR. I would like to echo the sentiments expressed by Senator Stevens.

Mr. HIGGINS. Thank you, and I will do that.

Senator PRYOR. Senator Simon, bear with me a moment. Senator Stevens has brought out a point that I would like to discuss for a moment and ask a couple of questions about. Then I am going to yield.

Senator SIMON. Yes.

Senator PRYOR. I am confused. You say that you can't import these. The *Washington Post* came out about 2 weeks ago, and I will quote from the lead article,¹ page 1, Chinese-made AK-47, there it is. I think you have one on the table. The Chinese armed forces exported close to two million guns to the United States from 1989 through 1991 and set up or bought a number of companies in our country in an effort to earn hard currency and obtain American technology for military use, according to U.S. officials and documents.

Now, I don't understand the conflict here.

Mr. HIGGINS. I will try to help you out on that because some parts of that article are misleading when you read it. I know that won't come as a surprise.

There is, and has been since 1989, an opportunity to sporterize the AK-47, as an example.

Senator PRYOR. To do what?

Mr. HIGGINS. Sporterize: Take off some of the features, the night sights, the threaded muzzles, the bayonet lugs, the pistol grips. You can remove some of the military-type features and sporterize it, and thus meet the sporting purpose criteria. And they have done that, but they haven't done it to the extent that the *Post* article implies.

I think in 4 years we have had 17,000 sporterized AK-47's come in. About 1.2 million weapons are coming in that one might assume are made in China, but are actually made in other places—they are surplus military—that are coming through China to the U.S. So the *Post* article counts those as well as AK's. It makes it look like they are all AK's. They are not.

Senator PRYOR. But they are still imported guns into our country.

¹ The article from the *Washington Post* appears on page 71.

Mr. HIGGINS. A lot of weapons are coming in from China and others places. But they meet the sporting purpose test.

Senator PRYOR. We heard they just took the bayonet off of the AK-47, left the bayonet in China, shipped the gun itself here. Is that right?

Mr. HIGGINS. They would have to do a lot more than that. You know, I can't say that that didn't happen, but they would have to do a lot more than that.

Senator PRYOR. By the way, for our record, I am going to place this article in the record. I think that as we have made reference to it, in all fairness we should do it.

Now, if an applicant applies for a Federal firearms license to buy and sell and to engage in the firearms business, how long do you have to turn that license down or to send that license to that individual?

Mr. HIGGINS. Forty-five days.

Senator PRYOR. What happens, then, in 45 days if you don't give that person a license?

Mr. HIGGINS. That person has the right to go to court to direct—

Senator PRYOR. He can sue you; is that right?

Mr. HIGGINS. Correct, effectively.

Senator PRYOR. Does this happen often? How many times have you been sued?

Mr. HIGGINS. It doesn't happen very often. Even if we miss that date, the delay is usually brief. They really don't go to the expense of suing us when they know they are going to get the license in a few more days. I don't know how often we have been sued over this but I can provide it for the Committee. It is a small number.

Senator PRYOR. Let's go back to the person applying for the liquor permit. Can that person sue you after 45 days if you don't give that person a permit or make a decision?

Mr. HIGGINS. No. And, in fact, it takes in many cases several weeks to do what I described to you earlier about source of funds.

Senator PRYOR. All right. What about a wholesale tobacco permit? Does that person applying for a license—

Mr. HIGGINS. We just grant permits to manufacturers of tobacco. We don't go below that level.

Senator PRYOR. Just the manufacturers.

Mr. HIGGINS. Yes.

Senator PRYOR. The applicant who wants to engage in the business of buying and selling firearms is the only one who has the right under statute to sue you in 45 days if you have not made a decision; is that correct?

Mr. HIGGINS. That is correct.

Senator PRYOR. Now I am going to yield to Senator Simon.

Senator STEVENS. Would you yield right there? If they sued you, who has got the burden of proof on sporting purposes?

Mr. HIGGINS. Yes, I don't want to confuse two things. To respond to the suits filed challenging whether the banned firearms had sporting application, we had to provide the information that we used in our study to prove that this was a type of weapon that wasn't being used for sporting purpose. So the burden was on us to show that we had fairly interpreted the statute and regulations.

But this other burden is one that if we don't issue a license or denial in 45 days, the applicant would simply have to show that we didn't do that, and we would have to act.

Senator PRYOR. Senator Simon.

Senator SIMON. Thank you, Mr. Chairman.

First of all, each day we may add a word to our lexicon, and "sporterize" is a new word for me. I had never heard it before. I am happy to be educated by you here, Mr. Higgins.

Second, I agree with Senator Stevens and Senator Pryor. We want to protect the right of responsible citizens and sports persons to have guns.

I happen to live down in deep southern Illinois right next to the Shawnee National Forest. On days when I am home—and I am not home that much—I literally see more deer than people. I am around hunters all the time. I have never seen a hunter with any of these weapons. I have never seen a hunter with an AK-47. You know, we can defend the rights of hunters to have guns without having this kind of weapon.

Now, right now, as I understand it, you inspect 2.5 percent of the gun dealers each year. Is that correct?

Mr. HIGGINS. Well, those figures up there, that may have been about how many it was, but this year I think we expect to conduct 25,000 compliance inspections of the 280,000 plus another 5,000 application inspections, so say 30,000 out of that, approximately 10 percent this year.

Senator SIMON. Ten percent. So using the 10 percent figure, counting the applications, that means once out of every 10 years you get inspected, which doesn't encourage compliance too much.

What if we were to have laws identical to Canada's? What kind of difference would that make in our society?

Mr. HIGGINS. Senator, I couldn't speculate, although I was struck by the fact when you indicated that there was something in the neighborhood of roughly 9,000 licensed dealers for a population roughly a tenth of ours. Our study, where we have looked at how many are in business selling more than 10 guns a year, it comes out to be almost 90,000 of the population, which is almost exactly 10 times the number for 10 times the population.

I suspect if there were a greater test for who is in the business, the number of licensees would come down, and then I think it would make more sense to develop a meaningful inspection program with a smaller universe of dealers.

Senator SIMON. Now, if I may go through the suggestions, I like the idea of adding to my bill fingerprinting. But if we were to—and I am just getting your reaction now. If we were to increase the license fee to \$750 a year and use that money or a substantial portion of it to add inspectors so that we can enforce the laws that we have, would you favor that—are you in a position to say whether you favor it?

Mr. HIGGINS. I am glad you added that last. I am not in a position to say. The Department clears with respect to tax policy and how resources are to be used, so that would be a decision they would make. I am sure that they are looking at that now, and we would be happy to give you—

Senator SIMON. Yes. If you can just speak for yourself and not for BATF here now?

Mr. HIGGINS. You have asked a bureaucrat if he would like to have more money to do his programs. And if I said no, you would think I was disabled from having a weapon under one of these categories. [Laughter.]

Mr. HIGGINS. But I am not sure what the level should be. I think that we can agree with you that it probably is too little now. We can provide you information on what the level should be.

Senator SIMON. So to get a gun dealer's license for \$10 a year really doesn't make much sense.

Mr. HIGGINS. You can say it as well as I can, and, you know, it is awfully inexpensive.

Senator SIMON. I think Warren Christopher is in danger here. [Laughter.]

Mr. HIGGINS. I might be in danger.

Senator SIMON. All right. And Senator Pryor asked you about the 45-day requirement. If you did not have the 45-day requirement but some kind of language that you have to act with, act promptly and reasonably, but where you have questions you have a little more time, does that make sense to you?

Mr. HIGGINS. Well, that would be helpful, especially if we were going to do more with respect to determining whether or not a person was in compliance with state and local laws and whether or not they had a business premises. If the issue is, given the present requirements in law, can we issue licenses in 45 days, I can't come here and tell you we can't turn them over in 45 days because we are not doing that much with them. But if we are going to do more with them, it will take more than 45 days. It does for the liquor permits, and it would for these.

Senator SIMON. And right now someone who is a gun deal, if you are trying to trace a gun and you call that gun dealer and say I would like to trace this particular weapon, you identify it and so forth, that gun dealer has the perfect right to not give you that information. Would it be helpful to you if that gun dealer were required to provide that information?

Mr. HIGGINS. That would be helpful, although I would quickly add, as you pointed out, that most of those people, the overwhelming number, will do that now. There are some who won't.

Senator SIMON. And what is your impression of those who won't?

Mr. HIGGINS. I think they have a lot of things to do and this isn't as high a priority to them as it is to us. In fairness, though, if we tell them it is a homicide and it needs to be done very quickly or it was a CIA shooting or something like that, I don't remember any of them turning us down in a case like that. It is more a question of whether they have the resources to do it.

Senator SIMON. And what would be the effect of requiring a gun dealer to comply with State and local law?

Mr. HIGGINS. Well, it would take us out of what I consider to be the embarrassing situation of issuing a license that we know is going to put somebody in violation of State and local law if they operate under the license. You know, the operations are prospective in nature, but we know that is going to happen.

It doesn't make sense to me for one level of government to be doing something in an affirmative way which ignores that there are other levels of government that don't want that operation to take place.

Senator SIMON. In that connection, I notice that in Canada you have an on-site inspection for licenses granted. If you had the resources, does that make sense?

Mr. HIGGINS. Yes. Right now we do about 17 percent of those, we could go on site. But that isn't very many.

Senator SIMON. And right now, as you have already testified, if somebody has a liquor license, you can go in and inspect as often as you want. If somebody has a gun dealer's license, you can only go in once a year. Does that present a barrier to good law enforcement?

Mr. HIGGINS. Yes, especially when we need to determine whether or not an individual is maintaining records and whether or not we should be taking some punitive action. With one warrantless inspection a year, it is difficult to go in and follow up quickly enough to see whether or not we have been able to correct what we found on the first inspection. This would allow us, for those who have serious violations, to go back more quickly to follow up to see if we should take action against their license. So that would be helpful in that area.

Senator SIMON. And to require, as my legislation does, that the dealer report the theft or loss of firearms, right now if a dealer doesn't want to keep a record—let's just say you sell to someone, a disreputable character, and you come around and because there is no requirement to disclose theft or loss they can simply say to you, "That gun was stolen." Is that correct, and you can't do anything about it?

Mr. HIGGINS. Well, that does happen to us, as you suspected. Obviously we see if they reported it to the local police department or if there are any other substantiating indicators, but we do have that happen. I don't want to overstate how often it happens, but it does happen.

Senator SIMON. And right now there is a penalty if someone says you know a gun is going to be used to commit a murder, but they are not very many people who are going to walk into a gun dealer and say, "I would like to buy a gun. I want to kill my wife" or "I am going to commit a murder." Changing it so that the gun dealer should not sell when there is reasonable cause to believe is a much tougher criterion. Does that make sense to you?

Mr. HIGGINS. That would be a tougher criterion. I am not sure what the test would be on that. You know, I would be happy to and we probably have at some point given you our thoughts on it. But it does move the criterion and would be helpful. I am just not sure how you do that.

Senator SIMON. All right. But shouldn't the criteria be such that if a gun dealer is in doubt, you don't sell?

Mr. HIGGINS. I honestly don't know what the Department's position would be on that, and it is not an issue, if I may be honest with you, that I have discussed with them to know. So we will provide this information. I can see from what you are saying that that

would be helpful to do that. Whether or not that is asking a gun dealer to go too far. . . .

Senator SIMON. When you say "the Department"—I know you are part of Treasury. If you are going to clear saying you are for something, who do you clear it with?

Mr. HIGGINS. Through two levels. Assuming it is not a tax policy level, it goes to the Assistant Secretary for Enforcement and then, of course, to the Secretary of Treasury.

Senator SIMON. Do we have an Assistant Secretary for Enforcement yet?

Mr. HIGGINS. We have a designee, but not someone who has been through the process.

Senator SIMON. Who is the designee?

Mr. HIGGINS. Ron Noble.

Senator SIMON. All right. I don't know Ron Noble, but if somebody is here from Treasury, I would like Ron Noble to stop by my office, and I would like to have a chat with Ron Noble. All right? If you can pass that along.

Mr. HIGGINS. Certainly.

Senator SIMON. Thank you. Thank you, Mr. Chairman.

Senator PRYOR. Do you want me to call him up?

Senator SIMON. No.

Senator PRYOR. I just want to get something straight. All licenses don't operate out of, let's say, a storefront. In fact, I understand about 72 percent operate out of their homes. Is this correct?

Mr. HIGGINS. Either a home or something that is closely related to it. It is not what you would consider to be a regular storefront business like a liquor dealer might have.

Senator PRYOR. Or out of the trunk of their car or the back of their truck or something? It is portable sometimes.

Mr. HIGGINS. Yes. I don't think we let them list that as an address, but I won't say they haven't operated out of that.

Senator SIMON. If my colleague will yield?

Senator PRYOR. Go ahead.

Senator SIMON. It is not that uncommon for someone to be a gun dealer and say, "If you want to get a gun from me, you will find me in room 342 at the local Holiday Inn, and I will sell you a gun"?

Mr. HIGGINS. That does happen.

Senator PRYOR. You have the manpower right now to inspect about 10 percent of the licenses. What is a little history here? Did not President Reagan try to abolish BATF?

Mr. HIGGINS. I remember that, yes. Yes, we were going to be split—

Senator PRYOR. Your agency has had a rocky road the last several years, right?

Mr. HIGGINS. Well, yes, until this year, as you can imagine. But, in fairness, yes, we have had some growth, but it hasn't been in the compliance area. It has been in the law enforcement area. So there has been some growth in that area, but not compliance-wise.

Senator PRYOR. I have prepared this chart, and I said I wasn't going to use it because I don't think it is quite accurate, but it is almost accurate. I don't want people to take it for being totally ac-

curate, and I didn't put one up there because I don't want to be accused of using misleading information.

We think we have in this country around 105,000 gasoline service stations, 105,800. We got some of these statistics from the Census Bureau. We think we have about 20,000 retail bakeries, about 180,000 pharmacists, but yet we have 280,000 people out there who are licensed to be in the gun business.

Now, do you have any final advice to us as to what we should do?

Mr. HIGGINS. No; other than, I think it does make sense—before we decide the level of staffing that ATF should apply to this program, it makes sense to determine what the universe of licensed dealers should be. I think the discussion of how tightly we should restrict licensing should come before ATF staffing as an issue.

Senator PRYOR. What typically happens to someone who is caught abusing their licensing privilege. Could you address that?

Mr. HIGGINS. The overwhelming number of the recordkeeping violations are handled by either a letter or some other notification to the person. Assuming it is not very, very serious, the nature of the notification is here is what you did wrong, you are expected to correct it, when we come back in again we want to see it corrected.

A very small percentage—and you know what those numbers are; I think 24 last year—had their licenses revoked. That is a long process, and that would be used only in the very worst of cases. Most get a letter, get some guidance, and then during a follow-up we see if they are—

Senator PRYOR. Is a violation of or abusing the licensing privilege a misdemeanor or a felony?

Mr. HIGGINS. There are some serious violations of the law which are felonies. If the dealer, for example, conspires with someone to falsify the 4473's, that is a felony violation. There is a whole range of options that are available.

Senator PRYOR. Have any of these people ever gone to prison for violation of falsifying?

Mr. HIGGINS. Yes. I don't want to overstate how many, but yes.

Senator PRYOR. Could they get another license from you after they get out of prison?

Mr. HIGGINS. One of the disqualifying features is a violation of the Gun Control Act. If the applicant admits to the violation or it appears in our criminal history check, he can't get a license. But there are provisions for restoration of other types of disabilities, and I am not sure exactly whether that is one of the disabilities they could have restored.

Senator PRYOR. Senator Simon, we have two other panels, and I am going to release Mr. Higgins if you have no further questions.

Senator SIMON. If I could, are these accurate as far as you know, these graphs here?

Mr. HIGGINS. They are accurate as far as I know. If the 1991 chart had been taken to 1992, it would show that that number goes up maybe that high. So it goes up. I think it shows 8,200 inspections in 1991. Last year that total would be in the range of 20,000. So there was a dramatic jump.

I also want to make it clear that we are doing that at the expense of other programs because we are concerned about this.

Senator SIMON. OK, because the figure there of 8,200, that is 2.5 percent. Even 20,000 brings you up to about 7 percent.

Mr. HIGGINS. Yes, so that is the only difference. Your numbers are right.

Senator SIMON. And the 276,000 would grow to how many in 1992, gun dealers?

Mr. HIGGINS. It is about 286,000 now.

Senator SIMON. What?

Mr. HIGGINS. I think it is 286,000. I will provide it exactly. Like Senator Pryor, I don't want to give a number that is not right.

Senator SIMON. And then a final question. Do you have problems with gun shows?

Mr. HIGGINS. Yes. Anyone who saw me on television, as I attempted to explain why all these people are able to buy guns, know that we have problems at gun shows. The problems are myriad, though. Number one, there are thousands of gun shows every weekend in this country, and we can't get to them. A lot of the activity that takes place at gun shows is legal. People can sell and improve their collections as long as they are not engaged in the business.

But there is also a fair amount of activity that goes on that is illegal. The records are not maintained correctly. People sell to straw purchasers. So they are a problem.

Senator SIMON. Thank you. Thank you both very much.

Senator PRYOR. Mr. Higgins, Mr. Black, we thank you very, very much. Once again, we echo the sentiments expressed by our colleague, Senator Stevens, with relation to the Waco situation. We give you our support, and we know that one of those fine agents that was killed was from Arkansas. It is certainly a sad thing, and hopefully this will be resolved soon.

We thank you very much. We want to give you some support.

Mr. HIGGINS. Thank you.

Senator PRYOR. I pledge to give you some additional support if we possibly can.

Mr. HIGGINS. Thank you.

Senator SIMON. Let me just add, on the Waco situation you have shown a lot of patience, more patience than I think I would have in that situation.

Senator PRYOR. Thank you, sir.

Our next witness is Mr. Don Cahill. Mr. Cahill is the legislative director of the Fraternal Order of Police. He is, in fact, a police officer, and he is testifying for Mr. Dewey Stokes. Mr. Stokes is ill with the flu and still in Ohio, and he has sent a very good representative to sit in his spot this morning.

Mr. Cahill, thank you for your attendance today.

TESTIMONY OF DON CAHILL,¹ LEGISLATIVE DIRECTOR, FRATERNAL ORDER OF POLICE ON BEHALF OF DEWEY STOKES

Mr. CAHILL. Thank you, Mr. Chairman, Senator Simon. Our National President, Dewey Stokes, does send his regrets because he was very much looking forward being here this morning.

¹ The prepared statement of Mr. Stokes presented by Mr. Cahill appears on page 54.

I welcome the opportunity on behalf of the members of the National Fraternal Order of Police to address this critical issue: Federal firearms licensing and importation policies. This is literally a life-and-death issue to thousands of Americans as well as rank-and-file law enforcement officers.

Senator PRYOR. Would you hold the mike a little closer to you? Bring it closer to you, Mr. Cahill. Thank you.

Mr. CAHILL. Yes, sir.

To give you my background, I have been a police officer for 22 years. When I finish walking the halls of Congress during the day, I go out and do my job at night. I am still an active police officer working with the Federal Drug Task Force.

First, let me make it clear that I cannot praise the efforts of the Bureau of Alcohol, Tobacco, and Firearms enough. For over a decade, and with limited support, they have carefully utilized the scarce resources that they have to become one of the major Federal players going after violent crime hand in hand with State and local law enforcement. There is not a more capable, effective, or efficient agency able to coordinate with State and local law enforcement agencies than the ATF. They perform a hard and dangerous job every day, and it hardly even makes a ripple. That is how good they are. But they know, and I know, that some of what they have had to clean up after could have been prevented had we done our job in the first place.

Sometimes people forget that law enforcement's main objective is the prevention of crime. Frankly, prevention costs a lot less. What ATF needs is more authority on the side of prevention. That authority does not threaten the rights of the law-abiding citizens; rather, it protects them.

Our democratic system is still the best ever devised. Flaws rise to the surface in our system, and it gives the people and their elected leaders the opportunity to make these corrections.

When the late President Johnson wanted to get to the heart of an issue, he would say—and I heard him say it many times—“Tell it with the bark off.” I am going to talk about the firearms business today “with the bark off.” I am not going to use any sugar coating. I am going to use realities and personal observations.

The fact is that our firearms licensing and import policies are badly flawed, and these flawed policies contributed significantly to the climate of lawlessness and fear that is pervasive throughout the United States. We did not intend to do this, but it happened. An ugly problem has surfaced, in plain sight, and it now definitely demands your attention.

How we deal with firearms, in my view, bears directly on our Nation's future. The United States is becoming to be perceived in the eyes of its citizens and in the eyes of the world as a nation where lawlessness is rampant and life is cheap.

I personally experienced numerous comments made traveling around the world by other nations, and we are now seeing happen here what we have seen in other nations for years.

To meet this challenge, I believe we must overhaul our system of buying and selling firearms. This will not be easy because firearms fuel a profitable, multi-billion-dollar industry. But the system can and should be improved.

Let me suggest some common-sense solutions to our firearms licensing and importation problems, solutions that will not bust the budget. They may, however, stop some of the fly-by-nights who purchase a license and deal firearms out of their homes and garages.

Fees for Federal firearms licenses are codified in law and have gone up since 1968. A firearms dealer license was \$10 a year then; it is \$10 a year today. The true cost for all the processing must be hundreds of dollars for each license. Taxpayers are subsidizing these firearms licensees, and that is wrong. Reasonable increases in license fees are in order, at least sufficient enough to cover the administrative processing expenses.

In essence, anyone who is not a felon can get a firearms license. You can have mental problems, a long history of misdemeanor assault arrests, and absolutely no capability of operating a legitimate firearms dealership, and still get a license. Since ATF is only allowed 45 days in which to issue a license, many of the other categories of prohibited persons, such as habitual drug users, who could only be found out through a rigorous field check, can slip through undetected.

This is one reason we have almost 300,000 firearms licensees in the U.S. With a mounting Federal deficit, it is not realistic to believe that our Nation will pony up the resources to hire more regulators to regulate 300,000 firearms licensees. Why should we? A better answer is to toughen the standards for these licensees. Then the number will gradually decline to a reasonable level of legitimate firearms dealers.

A lot of people think that Federal firearms licensees have to comply with State laws and local ordinances. They are wrong. Every day thousands of firearms licensees intentionally or unintentionally violate local zoning, fire, safety, and other ordinances as well as State laws. More than two-thirds of the firearms dealers operate from their homes in residential areas across America.

What we have here is a Federal law that promotes disorder at the State and local levels. The loss of State and local tax revenue is bad enough, but the denigration of public safety that flows from this policy is even worse. This is an unfortunate situation, and we need to correct it.

Firearms licensees are not required to have secure premises or to report the theft of common firearms to law enforcement authorities. This is a poor policy that is counterproductive and accounts for some of the so-called black market weapons that are available.

Laws work best when they treat everyone the same. I believe our policy on domestic and imported firearms should be in harmony. For example, we ban imported assault-type weapons and small Saturday night special firearms because they have no sporting purposes. Yet we permit sales of identical firearms made in the United States. There is no consistency, no fairness, and no logic in this policy, and it ought to change. If imported firearms need sporting purposes, then so should domestic firearms.

Although I appreciate the fact that we want to encourage the spread of free, representative governments around the globe, I don't understand why we have to accept cut-rate, military-patterned firearms as a first priority. SKS rifles from China and CZ 9-

millimeter pistols from Eastern Europe are providing high-tech firepower at Saturday night special prices.

Can manufacturers sell guns to the citizens of those countries that are manufacturing and selling these weapons? No, they can't. They send them into this country, and we sell them.

I save this issue for last because it is probably the most volatile one we will consider today. Generally, we sell guns in the United States on the honor system. Sure, the buyer fills out a form at the gun dealer's shop. But if the buyer is willing to lie or get a buddy to buy for him, then he can get all the guns he wants. John Dillinger, Clyde Barrow, Ma Barker, Pretty Boy Floyd, and Machine Gun Kelly would have no trouble buying guns in America in 1993.

Finally, a question that a lot of Americans ask: How many guns were sold in the United States in 1992, 1991, or any year?

I also wondered why nobody in the government had an answer. Then someone pointed to the Gun Control Act, Section 926, and I found the reason. That is the section that says Federal regulators will not gather any information on firearms transactions or dispositions. I wonder how we can effectively regulate an industry if we do not know how large it is or where most of its products go. I think our presence here today answers the question.

Mr. Chairman, the firearms business requires more accountability and oversight. Firearms ownership should demand a high degree of responsibility.

The members of the Fraternal Order of Police would be encouraged if our firearms laws helped to foster more accountability and responsibility. If our country fails to adopt more rational firearms policies, then, by default, we slide downhill into more violence, more killing, and more chaos. And that means more danger for our members as well as all other Americans.

Thank you for the opportunity to testify today.

Senator PRYOR. Thank you very much, Mr. Cahill.

Just for the record, how many members are in your organization, the Fraternal Order of Police?

Mr. CAHILL. We are in excess of 240,000 members throughout the United States.

Senator PRYOR. 240,000 police.

Mr. CAHILL. Yes, sir.

Senator PRYOR. Is it more difficult today to be a law enforcement officer than it was, say, 20 years ago or 30 years ago?

Mr. CAHILL. Well, since I became a law enforcement officer 20 years ago, I can say that it is definitely more difficult today. The citizens are demanding more protection. They are demanding more answers. They have more questions, and you have to be able to satisfy the needs of the constituents.

Senator PRYOR. What makes it more difficult? Is it the guns? Are they making it much more difficult or somewhat more difficult?

Mr. CAHILL. Well, Senator, the guns make it much more difficult, and I say this not because you have guns out there and people are getting killed. The fact is that every time an officer goes to stop a vehicle or goes to approach a person, he has to keep guns foremost in his mind. He has to do everything. He has to talk to everybody. He has to approach everybody as if they had a gun.

Senator PRYOR. I don't know if you have had the opportunity to look at Senator Simon's proposal—we are basically holding this hearing around his concept of licensing. Do you think if we adopt Senator Simon's proposal that we would infringe upon the rights of any lawfully constituted hunter or any hunter who was going to use the gun in a sporting environment?

Mr. CAHILL. Absolutely not, sir. What I think we would be doing is enhancing their rights by getting them to probably a more professional firearms dealer that would be more in tune and more qualified to help steer that person to the right type of firearms purchase and to proper safety techniques and proper education on that weapon.

Senator PRYOR. We are talking about the law-abiding citizen who wants these guns for a legitimate use or perhaps a sporting use.

Mr. CAHILL. Yes, sir. That is correct, sir.

Senator PRYOR. We were talking about the distribution system this morning, Mr. Cahill, and we were talking about a distribution system, in my opinion, that is totally out of control, and is totally broken down. Unless we do something about it, we are going to see not 280,000 people, we are going to see 580,000 people in the next several years who are licensed in this country to engage in the gun business. That is what we are talking about.

What do you think of the idea expressed that perhaps fingerprinting the applicant would be an additional safeguard? Would that help or hurt?

Mr. CAHILL. Well, it would certainly help. The more information that you have about a person, the more information you can gain on a background check.

Senator PRYOR. You made reference to Section 926 of the Gun Control Act. Is that the 1968 Act?

Mr. CAHILL. That is correct.

Senator PRYOR. The 1968 Act.

Mr. CAHILL. Yes, sir.

Senator PRYOR. In the statement you read, you state that is the section that says, "Federal regulators will not gather any information on firearms transactions or dispositions."

Mr. CAHILL. That is correct.

Senator PRYOR. Should we change that?

Mr. CAHILL. Sir, that has got to be readdressed and changed. It is just absolutely ridiculous that an organization can keep a membership list, can keep a donor list, and be able to trace their donors, be able to trace their members. Yet, when we have a need to trace a firearm on a major crime, it creates major conflict, major problems and takes an awful long time. In fact, if we had computer access to that information, it could be done in a matter of minutes, or hours at least, and able to assist us in catching a criminal.

Senator PRYOR. Do you think today the group that you represent, the law enforcement segment of our country, the Fraternal Order of Police, are becoming a little bolder as time goes on and as crime statistics rise, in calling for some of these reforms and standing up against some of the organizations who don't believe that we should change any of the laws?

Mr. CAHILL. Senator, in the last couple years, I have just been absolutely amazed at the law enforcement leaders in my organiza-

tion, and other organizations, that have come forward, people that I would never have imagined would come forward and demand that stricter controls be put on firearms and the ownership of firearms.

Senator PRYOR. Things are happening in this area. The State of Virginia now has adopted and signed into law where you can't buy more than one a month. Does that just apply to pistols, or does that apply to—

Mr. CAHILL. That applies to pistols, sir.

Senator PRYOR. All right. Does that apply also to assault weapons?

Mr. CAHILL. I am sorry. I am not clear on it enough to answer that.

Senator PRYOR. The State of New Jersey has just enacted some legislation that is a reform in this area.

We now have not only Senator Simon's bill, we have Senator DeConcini's bill, of which I am a cosponsor, that relate to the banning of the sale of some of the assault weapons. Then we have, of course, the Brady bill which is still hanging around and some say may well be voted on this year. So there appears to be a lot on the agenda, a lot on the menu, you might say, for attacking some of these problems that we are discussing this morning.

Senator Simon?

Senator SIMON. Thank you.

First of all, Mr. Cahill has been a frequent witness before the Judiciary Committee and has contributed immensely, and I really appreciate what you have done through the years.

Mr. CAHILL. Thank you, sir.

Senator SIMON. Incidentally, how many policemen were killed last year?

Mr. CAHILL. Last year the number was down. I don't know the exact number. I think it might be around 147 or something like that.

Senator SIMON. So 147, more than half as many policemen were killed as were killed in all of Canada last year.

Mr. CAHILL. Yes, sir.

Senator SIMON. There has been some television attention to this issue. My staff has just handed me a note saying that while there are 286,000 dealers today, an increase of 10,000 over last year, they are now, because of the television attention, getting 1,500 applications a week for gun dealers' licenses. Is that good news for the country?

Mr. CAHILL. No, sir; that is not good news because I venture to say that the majority of those people running in here trying to get a license before they think they won't be able to or that the fees will go up are probably not qualified. They probably don't have a bona fide place of business other than out of their homes, and when we have businesses like this operating out of homes, it creates a very dangerous atmosphere.

You know, storage of gunpowder and ammunition is very volatile, and keeping any abundance of them in a residential neighborhood is very dangerous.

Senator SIMON. And one of the provisions in my bill is to simply require that if there is a theft or a loss, that it be reported. That is pretty fundamental, isn't it?

Mr. CAHILL. Yes, sir; it is. It is quite fundamental. But I think we need to take further steps. I believe that we should demand or mandate that licensee applicants go as far as proving that they are complying with State and local laws as well as applicable zoning regulations.

Senator SIMON. I agree. Let me just read a provision in the law, and this is amazing. "No such rule or regulation prescribed after the date of the enactment of the Firearm Owners Protection Act"—a 1986 law—"may require that records required to be maintained under this chapter or any portion of the contents of such records be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof."

You know, that is astounding that that is in the law right now.

Mr. CAHILL. Well, Senator, I have been involved in many homicide cases in my career, and with the assistance of BATF, they have been able to trace some of the weapons involved in these homicides. In one particular homicide investigation I was involved in, we took over 3 years to find where a person had purchased a firearm that this person had committed the murder with, and it was a very serious, heinous crime. To this day, we can't prove that this person ever purchased a firearm, but yet we have something like 40 witnesses that have him owning a gun. That is the problem that we face.

Senator SIMON. We clearly have to do better, and I thank you very, very much for your testimony. I should say "testimony once again." You and the Fraternal Order of Police have been very responsible citizens in terms of what you advocate, and I appreciate it.

Mr. CAHILL. Thank you, sir.

Senator PRYOR. Mr. Cahill, a couple of final questions. Let me first announce that Senator Simon has been so convincing as to the merits of his proposal, I would like to be signed on as a cosponsor if the Senator from Illinois would put me on that legislation.

Senator SIMON. You are cosponsor as of right now.

Mr. CAHILL. I thank you, Senator.

Senator PRYOR. Second, Mr. Cahill, you started your statement, let's tell it with the bark off.

Mr. CAHILL. Yes, sir.

Senator PRYOR. I want to ask you a question with the bark off. Do you ever sit down with the National Rifle Association representatives and say, look, let's try to work something out, what can you do, what can we do? Do those meetings ever happen?

Mr. CAHILL. We would like to see something like that happen, sir.

Senator PRYOR. Who could initiate that?

Mr. CAHILL. Initiations have been made, but the climate has not been right.

Senator PRYOR. Well, we are going to have them testify in a few moments.

Mr. CAHILL. Yes, sir.

Senator PRYOR. By the way, I was very tempted—and I didn't—to put the National Rifle Association with you, seated with you. But I didn't. We are going to call them up in just a moment.

I want to thank you for your statement. You have been very generous with your time, and your statement, I must say, is very meaningful for us.

Mr. CAHILL. Thank you, sir.

Senator PRYOR. Thank you, Mr. Cahill.

I am going to call at this time from the National Rifle Association, a representative of the association, Mr. Richard Gardiner, who is the legislative director of the Institute for Legislative Action. He is accompanied, I believe, by Steve Halbrook, the consulting counsel for the National Rifle Association. We look forward to your statement, Mr. Gardiner. We will have some questions in a moment.

**TESTIMONY OF RICHARD GARDINER,¹ LEGISLATIVE COUNSEL,
INSTITUTE FOR LEGISLATIVE ACTION, NATIONAL RIFLE ASSO-
CIATION OF AMERICA; ACCOMPANIED BY STEPHEN HAL-
BROOK, CONSULTING COUNSEL**

Mr. GARDINER. Thank you. Mr. Chairman and members of the Subcommittee, my name is Richard Gardiner. I am the legislative counsel for the National Rifle Association of America. I am accompanied today by Dr. Stephen Halbrook, NRA's consulting counsel. I might note that Dr. Halbrook recently won a case before the United States Supreme Court, and I think we are very honored to have him here.

I appreciate the opportunity to testify today on behalf of the three million members of the NRA and their families, and I would ask that you admit my formal written testimony into the record.

Senator PRYOR. Without objection.

Mr. GARDINER. Thank you.

Mr. Chairman, I should emphasize that the NRA is interested in having a responsible and fair firearms licensing policy. We are willing to work with Members of Congress and the administration, and, indeed, Mr. Cahill's organization and any other organization, to craft legislation which both addresses the genuine needs of law enforcement to achieve real crime control while at the same time upholding the rights of law-abiding citizens.

Let me begin by expressing briefly the NRA's neutrality regarding the question raised in your recent floor statement concerning whether allowing the importation into the United States of products manufactured by the Chinese military is an appropriate policy. In our view, this is a foreign policy question, not a question of Second Amendment rights of Americans nor, based upon the criminological data available, a crime control issue.

Regarding specifically firearms importers licenses, we continue to support the right of law-abiding citizens to import lawfully produced products into this country. Under current law, as Mr. Higgins explained earlier, the person who obtains an importer's license from the BATF may import firearms that are "generally recognized as particularly suitable for or readily adaptable to sporting purposes." In addition, rifles and shotguns that are "curios and relics," which is the phrase Senator Stevens was looking for a few

¹ The prepared statement of Mr. Gardiner appears on page 55.

minutes ago, as that term is defined by the BATF, and handguns that are curios and relics, if they also meet the so-called sporting purposes test, may be imported.

In addition, again, as Mr. Higgins explained, to import a firearm, the licensed importer must apply for and receive specific authorization from the BATF. It is under this law that the firearms manufactured in China are imported.

I might note, since there has been a lot of discussion in the prior two panels about firearms being useful for hunting, that hunting is not the only reason that people possess firearms and specifically semi-automatic firearms. Semi-automatic firearms are the primary competition firearms produced today. Indeed, a number of the firearms on the table in front of you are used as part of the Federal Civilian Marksmanship Program and are used for informal competition and just informal shooting around the country by millions of Americans and their families.

In addition, they are collected by millions of people and, of course, remain a tool of self-defense for millions of decent and honest Americans and their families.

I might note that there is no evidence that these firearms are a significant factor in or becoming a significant factor in crime in the streets. Indeed——

Senator PRYOR. Excuse me just a moment. Would you please repeat that sentence?

Mr. GARDINER. Yes. There is no evidence that these firearms are a significant factor in or becoming a significant factor in crime in the streets. We can point, for example, to the report of the attorney general of New Jersey which came out just a month or so ago dealing with the 60-some firearms that are banned in New Jersey; a total of less than 1 percent of them was involved in crime in the State of New Jersey. That is not a significant factor. Indeed, in almost every case that the New Jersey attorney general referred to, the firearms were being used by people with prior criminal histories, not law-abiding citizens. So they are not a significant factor in crime.

Senator SIMON. Since my colleagues interrupted you, on that 1 percent in New Jersey——

Mr. GARDINER. Less than 1 percent.

Senator SIMON. OK. Less than 1 percent. These are used by whom?

Mr. GARDINER. You are talking about the ones used to commit crimes? They were used by people, by and large, with prior criminal records, and almost exclusively people who did not have, under New Jersey law, permission to own any kind of firearms.

Senator SIMON. Right. But, more specifically, do they tend to be used by gangs and drug kingpins?

Mr. GARDINER. No, they don't. There were very few of them used——

Senator SIMON. Are you sure of that?

Mr. GARDINER. Yes. There is no data to support that. I recognize that that assertion is often made, but the data simply do not support it.

NRA, indeed, has repeatedly urged Congress and the executive branch to request from the responsible authorities in the States in-

formation concerning the makes and models of firearms that are used to commit violent crimes so that the notion that certain types of firearms are used to commit violent crimes can be laid to rest.

Turning to what NRA believes are appropriate reforms of the Federal firearms licensing system, I should first point out—again, as Mr. Higgins noted—that the vast majority of firearms licensees are honest, hard-working citizens who strictly comply with every provision of Federal law.

But I should also point out that the large volume of dealer licenses was an intended—and I emphasize intended—consequence of the 1968 Gun Control Act and its subsequent amendments. When the interstate transfer of firearms was banned, Congress established the Federal firearms license to ensure that monopolies would not be created.

And, by the way, one of the reasons there are very many fewer licenses in Canada is that Canada does not ban the interstate sale of firearms. So there is no need for people to get licenses to get an exemption from an interstate sales ban.

In fact, it would not be incorrect to say that the original purpose of the license was to create a sufficient number of dealers who kept records of all transactions, to ensure that the legal supply of firearms would meet legal demand at reasonable prices so as not to make firearms ownership the exclusive realm of the wealthy.

In keeping with that model, BATF's inspection powers were written to allow annual unannounced compliance inspections on every dealer, and unlimited inspections when conducted in conjunction with a criminal investigation, either with or without a warrant. The statute, of course, continues to allow searches with warrants at any time the ATF can get a warrant.

The first reform that the NRA would like to suggest relates to the theft of firearms. Trafficking in stolen firearms is a serious crime. NRA would, thus, like to see Federal legislation making it unlawful to steal from the person or premises of a licensee any firearm in the licensee's business inventory. Indeed, any person who commits such an offense during a robbery or riot should be sentenced to imprisonment for a term of 30 years, no part of which may be suspended, or if death results, life imprisonment or possibly the death penalty.

Second, applicants for an importer's, manufacturer's, or dealer's license should be required to submit fingerprints.

Third, the types of firearms a person holding a collector's license—and there has been little mention, if any, of that this morning, but there is a fourth category of license called a collector's license—should be expanded so that collectors will be encouraged to obtain a collector's license. BATF can then concentrate its inspections on the real and true retail dealers.

Fourth, we would support a requirement that notification of the application for a dealer's license be provided to local law enforcement officials. Proposals to require approval by local law enforcement for the issuance of a Federal license have the potential for arbitrary abuse.

Fifth, we would support increases in the fees for FFL licenses, and I will address how much a little bit later.

Sixth, we support a measure to help prevent the theft of firearms by limiting the unnecessary interstate shipping of firearms. BATF currently maintains that a licensee may not personally transfer a firearm to another licensee, but must ship it from his licensed premises by common carrier, thereby exposing the firearm to the risk of theft. A licensee, we believe, should have the right to transfer or deliver firearms to another licensee at any location and not be compelled to use common carriers.

Seventh, we believe that adequate notice should be provided to all licensees of relevant State laws, as well as revoked licenses, and all Federal regulations.

Lastly, Mr. Chairman, I would like to turn briefly to our comments on Senator Simon's bill, S. 496, and I might add that we are very willing, as I expressed to Senator Simon, to work with him to come up with language that we think would make his bill satisfactory and we think would actually fully accomplish the goals that he is trying to achieve.

There are sections of the bill that we can support, there are provisions with which we do not agree, and there are provisions which we believe can be improved upon.

Section 1, the Identification of Recipient of a Firearm, would require a person to notify a common carrier that the person is shipping a firearm to a licensee. But attaching a firearm label is analogous to attaching a "steal this box" label.

Indeed, I might note as a footnote that in the airlines industry, when airlines were requiring people to put notices on the baggage that there was a firearm, they were experiencing a tremendous problem with firearms theft. Subsequently, the airlines have decided not to require people to put the notice on the bag but rather simply to give written notice to the clerk, and that is all.

We think that legislation expressly forbidding identification of a container as containing a firearm is far preferable, but certainly giving written notification would not be inappropriate.

With regard to the remaining portion of Section 1 of the bill, while we agree with the intent of this section, we believe that it can be improved upon with some minor language changes simply requiring the signature of the recipient of a firearm, an already common practice, in fact, in the common carrier industry.

With regard to Section 2, the Sale of Firearm or Ammunition Having Reasonable Cause to Believe it will be Used by Another Person to Commit a Crime of Violence, we don't have any problem with this section. We would urge only that language be inserted to maintain the interstate commerce nexus of current Federal law so that the constitutionality of the section is not subject to challenge in the courts.

With regard to the License Application Fees for Dealers, we do not support a \$750 fee. While \$750 may be a pittance in Washington, D.C., at a general store in Clifton, Tennessee, or Piggot, Arkansas, or Grafton, Illinois, it is the difference between keeping a shotgun or rifle for local customers and making them drive to a big supermarket. We believe that a fee increase to \$50 per year—that is, \$150 for a 3-year license—or, if the agency chose to make the license valid for longer, the initial fee would end up being larger—is

fair, and based on what Mr. Higgins indicated, it would probably pretty much cover the cost that the agency is now experiencing.

Section 4, Action on the Application for License. The law currently requires, as you have heard earlier, the Secretary—or the ATF, actually—to act on a license within 45 days. We believe that some time limit is appropriate to protect the due process rights of applicants. We would, however, support extending, but not eliminating, the time period in line with the actual time required to do a thorough background check. And I might note that the General Accounting Office recently did a study on this question, and they found that about 95 percent, I believe, of the licenses they can process in 45 days. It appears that 60 days is about an appropriate time based on what the GAO found.

Section 5, Compliance with State and Local Law as Condition to License. This would put the Federal Government in the difficult business of interpreting thousands of often complex and changing local zoning ordinances and State and local business license laws that are within the purview of local civil authorities and are not even local law enforcement matters.

I brought with me, just for purposes of demonstration, the current zoning law for one city in Virginia, the city of Norfolk, Virginia. I can tell you, as someone who has been involved in looking at State and local business licensing laws, that you are going to need hundreds more lawyers in the ATF to make this law work, to make such a law work, if it could. Indeed, I inquired of ATF just before they left how many lawyers they have nationwide. They only have 50 to handle everything that they deal with. They would have to make that staff immensely bigger to make this provision work.

We believe that a better alternative is that an applicant for an FFL show evidence of having notified local authorities that he has applied or that he intends to apply for a dealer's license.

Section 6 regarding Inspections of Firearms Licensees. The proposal would delete the current law authorizing only an annual compliance inspection. As I noted earlier, however, ATF has access to the records and inventory of a licensee at any time to conduct bona fide criminal investigations. That is without a warrant. With a warrant, of course, they can go in any time as well. Given the demands an inspection may place on an FFL holder in providing access to an agent or a team of agents, it is not unreasonable to require that such inspections be limited to the actual need to conduct them.

I might note that, according to ATF, they now can only inspect a small percentage of the dealers. There is really no reason to believe that they would do more inspections if they had the legal authority to do that.

Section 7, Reports of Theft or Loss of Firearms. We believe that it is not appropriate to treat theft and loss equally. Penalties for not reporting losses should not be included since as a matter of routine business large firms frequently cannot locate inventory in their premises for commercially reasonable periods of time, even though such items remain within the control of the business. The time to report thefts, which we have no problem with, however, should be expanded to a more reasonable 5 business days, and the

reports should be allowed to be made to either the ATF or local law enforcement.

I might note, again, as Mr. Higgins mentioned, that there is not a significant problem with failure to report actual thefts because the manufacturers or dealers would like to make claims with their insurance companies. And no insurance company will process a claim without a copy of a police report.

Section 8, Responses to Requests for Information. As Mr. Higgins noted, again, there really isn't a problem with dealers responding to requests for information from the BATF. The reason probably that many of them who don't respond by telephone don't respond is that they don't know that it is ATF calling them. We believe that this provision should be amended by making it clear that the request should be in writing or in person to ensure to the dealer that he knows that it is, in fact, someone from ATF who is communicating with him and not somebody who may have some other motive for trying to gather information. We believe it is appropriate for agencies to reveal their authority before they can inquire and demand responses from people.

Finally, in this section, we believe that it should be clear that it applies only to traces of firearms in the course of a bona fide criminal investigation so that there is, again, a genuine purpose for conducting the inquiry.

With regard to Section 9, we have no objections to that section.

In closing, Mr. Chairman, we support many of the provisions of S. 496 and general reforms to the process, and as you can see, we stand ready to assist in the drafting of more responsive provisions where we do not agree.

Thank you.

Senator PRYOR. Thank you very much, Mr. Gardiner. A few questions here, and then I will yield to my friend and colleague, Senator Simon.

You state in your opening paragraph that you support a policy that is responsible and fair. Is the policy that we now have on the books, in use, responsible and fair regarding obtaining a Federal license to buy and sell firearms?

Mr. GARDINER. As I expressed in my statement, I think that the law can be improved upon. It is a law that was written in 1968, and it can definitely be improved upon. It is not as responsible as it could be.

Part of that, I hasten to add, is due to the manpower limitations of the ATF. They have a lot of authority under the statute now, but according to Mr. Higgins, they don't have available the manpower to do what the law already allows them to do.

Senator PRYOR. With regard to manpower or people power, has NRA been supportive of increasing the resources given to BATF?

Mr. GARDINER. We have really generally, to my knowledge, not taken a position with regard to ATF's budget. We believe that ATF is better off—it can say better what they need for resources than we can.

Senator PRYOR. All right. You say that you would support an increase in the fee. The fee today is \$30 for a license. It is \$10 a year. We have had testimony from BATF that it costs approximately \$100 to process the simplest of the requests or applications. And we

are subsidizing every applicant. The American taxpayer, I am, Senator Simon is, all of us are.

Now, should we subsidize these license fees?

Mr. GARDINER. As I said, Senator, we think that the fee should be raised to on the order of \$50 annually, and a way to raise the money up front would be to make the license valid for not 1 year or 2 years or 3, but probably 5 years, subject, of course, to revocation, which would mean that you would get, depending on how long the license was, \$150, \$200, \$250 for an application. And we think that is appropriate.

Senator PRYOR. Presently, it costs \$30 for the applicant, \$10 a year, but I am curious. What does it cost to join the National Rifle Association per year?

Mr. GARDINER. \$25 a year.

Senator PRYOR. \$25 a year.

Mr. GARDINER. Yes. You get a better bargain from the government. [Laughter.]

Senator PRYOR. I am curious. Is that a tax deduction for a member?

Mr. GARDINER. No.

Senator PRYOR. It is not?

Mr. GARDINER. We are a 501(c)(4) organization, so it is not deductible.

Senator PRYOR. It is not deductible for the member.

Why are we having such a dramatic increase in the number of people who want to engage in the business of buying and selling guns?

Mr. GARDINER. Well, as I said, let me lay one foundation before answering; that is, unlike any other country, we have a law which prohibits people from buying firearms or acquiring firearms in another State. For example, if you had a relative in Missouri and you wanted to give him a hunting rifle, you couldn't do that. If you did that, if you gave it to him as a Christmas present, a single-shot .22 rifle for squirrel hunting, you would be committing a Federal felony. So when Congress in 1968 created that ban on interstate transfers, it also established a mechanism whereby people could get around that. They called that a dealer's license.

It is a shame, in a way, that they didn't call it an interstate purchase permit, because then it would be a lot clearer, or expand the collector's license. But that is the reason that there are, basically, a lot of licenses out there.

Why has there been an increase in the last few years? I think Mr. Higgins was absolutely right. There are a number of reasons. First of all, you can buy guns wholesale using a dealer's license. You can save money, and obviously people want to save money when they buy anything. They see it as a financial benefit to spend \$30 for a license if they can save hundreds of dollars on what they are buying.

In addition, again, as Mr. Higgins pointed out, since the media show in the last few months about dealers' licenses, people have decided—they found out what they didn't know about before, and now they are getting licenses just for the sake of getting them.

Senator PRYOR. To the tune, as Senator Simon has just pointed out, of 1,500 requests a week.

Mr. GARDINER. Right. I think you will find that in 3 years that a lot of those people won't bother to renew their licenses, but those factors combined have caused the increase.

Senator PRYOR. Well, let me ask about this 45-day period that is basically in the law. If an applicant applies for a license to BATF and in 45 days has not been granted that license or that issue has not been disposed of, the applicant has the right under the statute to sue BATF because of going over the 45-day period.

If I apply for an SBA loan, if Senator Simon applies for a farm loan, if we apply for a student loan, if we apply for a liquor permit, I know of no other place in statutory law where the failure to act by an agency of the government subjects the government to a fine of this nature. Do you know of any other?

Mr. GARDINER. To a fine?

Senator PRYOR. Well, to the right to sue.

Mr. GARDINER. All it is is a writ of mandamus. There is no fine involved to the government.

Senator PRYOR. Well, there is no fine, but the right to sue inures to the applicant.

Mr. GARDINER. Well, I think under the Administrative Procedures Act, while there are no set times, if a government agency simply fails to act on a license, you will eventually have a right to sue to compel them to at least explain why they aren't acting within a reasonable period of time.

Senator PRYOR. That is right, but that is not the statute here.

Mr. GARDINER. Right. I understand.

Senator PRYOR. This is very different treatment.

Mr. GARDINER. This sets a specific time limit, and the reason for that is the fear of abuse that licenses would simply not be granted.

Now, as I said, we don't have any objection if there is a need—and according to this GAO study, there may be a need—to expand that time to allow the government some more time to process licenses.

I might note that I serve on the Illinois Firearms Commission, appointed by the Governor, and one of the things—and in Illinois, as Senator Simon knows, the State has up to 30 days to issue or deny an application for a firearms owner's identification card. Senator Simon may have even been in the legislature when that was voted on.

In any case, according to the testimony of the chairman of our committee, who is also the State police director, the reason they need 30 days is because it takes that much time to move the paper around and to create the card. The actual check takes a matter of minutes. I imagine that ATF probably is experiencing the same problem; that it is more a paper problem than anything else.

Senator PRYOR. Have you ever attempted to sit down with the Fraternal Order of Police and see if we can get together on some of these issues?

Mr. GARDINER. We are willing to sit down and talk to anybody at any time.

Senator PRYOR. I am not talking about are you willing. Have you ever done it in the past?

Mr. GARDINER. I personally have not, but the director of the institute has in the past made arrangements to do that. I was not in the meeting, so I can't tell you what happened. But, yes, we have.

Senator PRYOR. I don't know how the NRA is going to publicize this particular meeting this morning. I don't know whether you are going to come out in ultimate support or in condemnation of Senator Simon's proposal. I don't know whether we are going to be portrayed as wanting to take people's guns away. I have had that accusation made about me by your organization, by some of your members.

But I can tell you, Mr. Gardiner, I do not know of one Member, not one, no exception, of the U.S. Senate who wants to take legitimate guns for a legitimate purpose away from any citizen of this country. I don't know of one, and I know every Member of the Senate. And yet we get blamed and tarnished by the National Rifle Association time and time again when we speak up for some of the people that are afraid to go out the front door of their house.

Do you see what we are faced with?

Mr. GARDINER. Absolutely, Senator. And our three million members are people with families and children who are as concerned about crime as anybody else. I myself have two small children, and I am horrified at the crime in this country. And the reason that our members speak out so strongly the way we do is because we are horrified by crime and we want to see something serious done to stop crime. We don't want to see efforts wasted going after people like me who simply want to own a semi-automatic firearm. And we are as concerned as anybody, and probably more so because our rights are the ones that are going to suffer, are being made to suffer because of the crime problem in this country.

Senator PRYOR. How are your rights going to suffer?

Mr. GARDINER. If it is a crime for me to possess a certain type of firearm, then my rights suffer. And Senator DeConcini's bill, for instance, is a bill which would directly affect many, many members of the National Rifle Association.

Senator PRYOR. Would your rights suffer if you could not go and purchase that gun right there that is mounted on that tripod?

Mr. GARDINER. My personal rights would not suffer, but it would have no impact on crime, Senator. It would move the Federal Government or whatever government agency was enforcing that law that much farther away from going after violent, dangerous criminals. There are too many violent, dangerous criminals on the streets.

Senator PRYOR. Sir, I am going to differ with you a little bit here. We don't know whether it would have much impact, and the reason we don't is because, as our friend Mr. Cahill just testified, Section 926 in the 1968 gun legislation said, "Federal regulators will not gather any information on firearms transactions or dispositions." So we can't get the information.

Mr. GARDINER. Senator, what that does is prevent the Federal Government from keeping lists of firearms owners and firearms. It prevents Federal registration. And Mr. Higgins, when he was asked about the tracing, did not indicate—and I hope you will be asking for more detailed information—has not indicated that there is any problem with conducting traces, given that law. I have never heard

of any. We have looked for years for reasons why there is a need to repeal that, and none has come forward.

But I think one of the things that this Subcommittee could do as part of its effort is to get this data. The NRA has never been afraid of getting data on the record. That is what we want to see. Unfortunately, a lot of this debate is simply displaying props and not gathering data, and we believe that it is important to gather data.

As I said, we would encourage the Congress to contact the State police in every State in this country and get hard specific data on how many of that kind of gun has been used to commit robberies and murders, how many of this one and this one and this one. That simply hasn't been done despite our best efforts to try to get it done.

Senator PRYOR. Senator Simon?

Senator SIMON. Thank you. Before I get to the question at hand, because my colleague has mentioned these weapons in front of us, do you think it would harm our country if we outlawed the use of and ownership of the weapons that we have in front of us?

Mr. GARDINER. Absolutely, Senator, because these are guns that are not being used by criminals. These are guns that are owned by millions of law-abiding citizens in this country. These are all semi-automatic firearms that function exactly the way guns did that were manufactured in the last century. They fire lower-power ammunition than is available in your common hunting firearm. There are millions and millions of them out there owned by millions and millions of people for competition, for collecting, and for self-defense. And it would be a serious detriment to the country—

Senator SIMON. Let me just say that the testimony of the police before the Judiciary Committee, as you know, is precisely the opposite of your testimony.

Mr. GARDINER. And that is why, Senator, we would encourage the Committee to ask for very specific hard data that support that.

Senator SIMON. That is fair enough. Are you the new Mr. Baker for the National Rifle Association?

Mr. GARDINER. No. Mr. Baker is still Mr. Baker. I am his counsel.

Senator PRYOR. All right. No one has been designated to take his place yet?

Mr. GARDINER. Oh, are you talking about Mr. Gibbons, the former Director of Federal Affairs?

Senator SIMON. Yes.

Mr. GARDINER. No. No one has been designated to take his place.

Senator SIMON. OK. Now, if I can get to the gun dealership question, somewhat to my surprise—and maybe yours—while we have some significant differences, those differences are narrowing and perhaps not that far apart. I don't know if that does more harm to your reputation or mine. [Laughter.]

Senator SIMON. Have you ever heard of the National Association of Stocking Gun Dealers?

Mr. GARDINER. Oh, certainly.

Senator SIMON. The National Association of Stocking Gun Dealers, to my surprise, says that, with slight modification, they are very enthusiastically for my bill; that they are tired of fly-by-night

gun dealers out there abusing the public and abusing the privilege to sell weapons.

Mr. GARDINER. Senator, if I may?

Senator SIMON. Yes.

Mr. GARDINER. Could I comment on that?

Senator SIMON. Yes.

Mr. GARDINER. Unless you had a question.

The National Association of Stocking Gun Dealers is essentially an industry organization. NRA is a consumer organization. And what they consider to be fly-by-night competitors are just that—competitors. And, of course, they would support legislation which would reduce the number of competitors out there, which would enable them to raise their prices. So I am not particularly surprised that they would support any kind of legislation that would eliminate competition.

As a consumer organization, we don't support efforts to reduce competition because we believe that gun owners should be able to have choices of firearms at reasonable prices without having to be forced to buy from essentially what are monopolists.

Senator SIMON. As long as that competition is responsible.

Mr. GARDINER. Absolutely.

Senator SIMON. But it has surprised me, Mr. Chairman, that the majority of mail that we have received and phone calls we have received from gun dealers has been in support of my legislation, not in opposition to it.

Let me just tick off some of the provisions that you have gone through. First, to make it a felony not to report within 24 hours, I think there is a possibility of working out a compromise on that. I don't think that is a problem.

But not to require a report on losing inventory, I think that is a problem because that is too easy for someone—let's just say I am a gun dealer, and I sell a gun to someone named Mike Robinson who is in the underworld, and I don't want to report it. If somebody comes around, I will just say, "I lost the gun." It seems to me that reporting losing guns is also very important.

Now, you say on tracing you are opposed to the requirement that we can do it by phone. You mentioned Grafton, Illinois. When you say that it has to be an in-person request, do you know how far Grafton, Illinois, is from a BATF office?

Mr. GARDINER. I am afraid I don't.

Senator SIMON. Well, it is probably about 300 miles. And to say to the BATF you have to send someone 300 miles—

Mr. GARDINER. Senator, I said it could be in writing or in person, because the dealer needs to know that he is dealing with someone who really is from the ATF. If they want to do it in writing, which is, in fact, the way it is commonly done now, we have absolutely no problem with that.

Senator SIMON. "In writing" would include fax?

Mr. GARDINER. Sure. As long as there was some indicia of authority to show that this really was ATF that was communicating and not Mike Robinson.

Senator SIMON. All right.

Mr. GARDINER. By the way, I don't know who Mike Robinson is. I hope we haven't slammed him unnecessarily.

Senator SIMON. No. This is a fictitious name I have made up here. My colleague has already made the point on the 45 days.

Notifying local authorities is a good idea. It is not enough. The BATF—and this is not their official position, but the BATF people we talk to tell us unofficially that they think the most important part of this bill is to comply with local ordinances.

Mr. GARDINER. But once again, Senator, the purpose of a dealer's license under current law is not so that a person can engage in the business of dealing in firearms. It is essentially—and, in fact, as we know, many, many people don't actually engage in the business. They get a license so that they can acquire firearms for themselves. In most instances, there would be no need to comply in those situations with Federal licensing and zoning laws. But the big problem is that ATF with a staff of 50 lawyers is simply never going to be able to process those applications with that kind of requirement.

As I said, this is only one city in one State. These are the zoning laws. This doesn't include the business laws, which are at least as long. And it takes many, many hours of research, if you are not readily familiar with the law already, to be able to determine if you are, in a specific situation, in compliance with the law.

Senator SIMON. Yes, but most of those ordinances have absolutely nothing to do with any kind of sales operation.

Mr. GARDINER. Virtually all of them do, I beg to differ. They all, zoning ordinances and business license ordinances and State statutes, both, have to do with sales operations for tax purposes and also for zoning purposes.

Senator SIMON. But the zoning laws that would deal with somebody who wants to sell a weapon basically are pretty simple.

Mr. GARDINER. Well, unfortunately, that is not the case. There is lots of case law on zoning ordinances. What seems on its face to be fairly simple is actually far more complex than—

Senator SIMON. You are making the legal case trying to complicate things that I think are not that complicated.

Finally, if I may follow through with a statement that my colleague made, that there is not a single Member of the Senate who wants to take weapons away from responsible citizens and responsible sports people. I believe that. I have yet to talk to a Member who wants to do that. And yet, in large part because the NRA literature goes out, I have thousands of people in Illinois who believe I want to take guns away from responsible citizens and sports people.

Do you have any evidence that a single Member of the Senate or the House wants to take guns away from responsible citizens and sports people?

Mr. GARDINER. Yes. Certainly Senator Metzenbaum's bill, Senator DeConcini's bill, both those bills, in fact—

Senator SIMON. Senator DeConcini's bill wants to take some of these weapons away.

Mr. GARDINER. Right. Now, what you are doing, Senator, is—

Senator SIMON. You are saying that because they want to take certain types of weapons away, they want to take the guns that are used to defend a home or to go out and hunt deer with.

Mr. GARDINER. The guns that are listed in Senator DeConcini's bill are guns that are owned by responsible, law-abiding citizens for perfectly legitimate purposes.

Senator SIMON. If I can use the DeConcini bill, have you ever heard of a hunter going out hunting deer with an AK-47 or an Uzi?

Mr. GARDINER. Well, not with an AK-47 because that is a machine gun. But if you mean by that the semi-automatic look-alike of the AK-47, absolutely. People hunt deer with that gun.

Now, it is not a great gun for it because it is a little bit too low-powered, but certainly people hunt with that. But as I said, Senator, hunting—

Senator SIMON. It is something that looks like an AK-47?

Mr. GARDINER. Absolutely. Yes.

Senator SIMON. Have you ever seen anybody hunt deer with—

Mr. GARDINER. Have I personally seen somebody? No. But I have spoken to lots of people who do, and I have seen articles about it. I will be glad to provide them to you, if you would like.

Senator SIMON. I see a lot of hunters. I have never seen one—maybe you are living in different territory than I am. But, anyway—

Mr. HALBROOK. Senator, may I make a comment on that please? May I make a comment on that?

Senator SIMON. You may.

Mr. HALBROOK. Thank you.

Senator SIMON. You have been sitting there silently all this time. You are entitled to get in a word here. Earn your money.

Mr. HALBROOK. I appreciate it.

All of the rifles on the table here that were imported were imported between 1968 and 1989, and they were imported because the BATF approved them as generally recognized as particularly suitable for or readily adaptable to sporting purposes. It wasn't the NRA that approved all these rifles for importation. It was the BATF. Millions of Americans purchased those rifles in reliance on their legality. And as a matter of fact, if you go to any shooting range in the country—maybe not out in a hunting field, but in a shooting range, you will see several of these rifles. The ones that are .308 caliber or .223 caliber are excellent target rifles. And as a matter of fact, if you just take the ugly black stock off of these rifles and put a nice looking wood stock, they wouldn't be on the table in front of you, and yet they would fire the same cartridges.

Senator SIMON. If I follow you, then, you would support the BATF prohibiting the importing of these kinds of weapons; is that correct, Mr. Halbrook?

Mr. HALBROOK. Well, not necessarily. My point is that the BATF originally approved them—

Senator SIMON. Not necessarily? Do you or do you not favor the BATF prohibiting the importing of these weapons?

Mr. HALBROOK. I do not favor the BATF prohibiting their importation because for over almost a 20-year period they determined these were sporting rifles. If you go to any target range in the country, you will see these same rifles being used for target practice, and you won't see them stuck in anybody's back pocket hold-

ing up a 7-Eleven. They are not concealable, and they are not frequently used in crime.

Mr. GARDINER. Senator, if I might comment just briefly also on the ATF and the 1989 import ban, like many of the questions here today, what ATF focused on was whether the guns are useful for hunting. Indeed, they went farther than that and focused on whether the guns were useful for hunting on hunts conducted by professional guided hunters. So they came to the conclusion that a number of them, which they then banned for importation, were not sporting.

Now, we disagree with that, that sports is not—that hunting with guides is not the only kind of sporting use for which a firearm can be used. Competition shooting, which is what most of these guns are used for, the rifles, is a significant sporting activity.

Senator SIMON. I have no further questions, Mr. Chairman. I thank you both.

Mr. HALBROOK. Could I add one more point on that same point? The only gun here that was litigated as a result of the 1989 import ban was the third from the end over here, the Styr-Aug SA. It is the high-tech-looking rifle with the scope. And the U.S. District Court determined in that case that there was no evidence that that particular rifle had been used in a single crime in the United States.

What you are seeing here is some of these rifles are fairly exotic and extremely expensive, and many of them have never, indeed, been used in a crime. Although that District Court's opinion was overturned because the Court of Appeals held that the ATF had discretion to change its mind about the sporting purposes, the Court of Appeals did not discount or dispute the District Court's finding that that particular rifle had never been used, there was no evidence it had ever been used in a crime.

Senator SIMON. But these are the kinds of weapons that are helpful—or harmful, depending on how you want to phrase it—to somebody who goes berserk in a school yard in Stockton, California, or somebody who sits in Waco, Texas, holed up. And I think we have to recognize we have some problems.

Thank you, Mr. Chairman.

Senator PRYOR. Speaking of going berserk, I am near going berserk trying to figure all this out, Senator Simon. But maybe it is true that you are not going to see some of these weapons being carried into a 7-Eleven, but I think we are seeing some of these weapons at this moment being used in Waco in a compound by someone who has gone berserk and someone who caused the killing of four agents of the BATF, one being from Arkansas.

In fact, ABC News has stated that this gun is in Waco in that compound.

Mr. GARDINER. Senator, I wouldn't deign to try to prejudge what is happening in Waco. I think those people have a right to a trial, and I think what comes out after trial, after all the evidence is in, we can start making determinations. Obviously, it is very sad that anybody has been killed. But I think judging anybody in this situation at this point is premature.

Senator PRYOR. Mr. Gardiner, I want to conclude our hearing, but I want to go back to page 2. I had you repeat this statement. I

appreciate your doing it. I am going to quote that. It is the beginning of the first full paragraph on page 2, and I am going to quote: "I might further note that there is no evidence that these firearms are at present a significant factor in, or becoming a significant factor in, crime in the streets."

The Cox Newspaper study recently said that assault weapons are 20 times more likely to be used in a crime than conventional firearms. Does that gibe with your statement?

Mr. GARDINER. That conclusion of the Cox Newspaper is so faulty that if that person tried to submit that in a freshman criminology class in college, he would probably get an F. The ATF itself, shortly after that fact came out or that statement—I can't even call it a fact—repudiated the study, essentially saying that its conclusions were not justified based on the evidence that they studied. And, indeed, that was a gross understatement. That Cox Newspaper study, as I said, would at best deserve an F in a criminology class, a freshman criminology class. It is essentially worthless.

Senator SIMON. If I may, if my colleague would yield?

Senator PRYOR. Go ahead.

Senator SIMON. And this is not based on any scientific study, I have to say. The testimony from the police organizations in our Judiciary Committee, of course, has clearly been in the opposite direction from your testimony.

Senator PRYOR. By the way, our staff has just indicated that this Cox Newspaper study was, in fact, relied upon by the BATF in the Court of Appeals case. The name of it, I believe, is *Guns South Corporation v. Brady*.

Mr. GARDINER. Senator, I will be glad to provide you the written refutation that ATF put out. In fact, they have done it several times; the most recent one was in a letter to a Member of the House of Representatives last year.

Mr. HALBROOK. And if I could add, Senator, *Guns South* is the very case that involved the rifle that is the third one from the end, where the U.S. district judge made a finding that there is no evidence that particular rifle had ever been used in a single crime in U.S. history. And so Cox just lumps all these together, many diverse kinds of firearms, as "assault weapons," when they did not have sufficient data to justify what they call assault weapons as being used in crime.

Senator SIMON. May I ask one final question?

Senator PRYOR. Go ahead.

Senator SIMON. My memory may be faulty on this, but isn't it true not many miles from here that CIA agent who was killed was killed by an AK-47?

Mr. GARDINER. It was not an AK-47. It was a Chinese-manufactured semi-automatic look-alike of an AK-47. That is right. It was. But it could have been—he could have used a shotgun. He could have used a handgun. He could have used many other types of guns and achieved the goal.

Senator PRYOR. That gun, by the way, was imported from China.

Mr. GARDINER. Excuse me?

Senator PRYOR. That gun was an import from China.

Mr. GARDINER. That is correct. That is why I say it was a Chinese-manufactured look-alike, as is this one. That is not an AK-47.

Senator PRYOR. By the way, our country did a strange thing. Senator Simon keeps up with foreign affairs much more than I do. But we did a strange thing right after Tiananmen Square with China. We said we are going to stop selling you people anything. We are not going to trade with you. However, we didn't stop buying guns from them. That is when they started selling us all these guns.

Mr. GARDINER. Senator, I think that whole question about whether we should be importing—whether firearms should be imported or any other product should be imported from a country that may be using slave labor to manufacture the products is very definitely one this Committee ought to consider. It is not an issue for the NRA, but it certainly ought to be, I think personally, an issue.

Senator PRYOR. One final finding here: 1 in 10 of the weapons used in crimes are assault weapons. Is that right or wrong?

Mr. GARDINER. That is false. That is, again, from that Cox Newspaper study, and it is a false statement.

Senator PRYOR. What about this one: In Los Angeles and Miami, nearly one out of five guns used in a crime are assault weapons. True or false?

Mr. GARDINER. That is false. The testimony, in fact, of the head of the Firearms Bureau from Los Angeles before the Judiciary Committee—I think it was a couple of years ago when Senator Metzenbaum was chairing—was that the number was just under 3 percent; that is, 1 out of about 35 or 34.

Senator SIMON. I thank you very much. We thank you. We thank the other witnesses, and I thank particularly you, Mr. Chairman.

Senator PRYOR. Did you have something?

Senator SIMON. I just want to say I think we have to address this problem. It may be that the National Rifle Association is inching toward what I think is a more responsible stand in this field. And I welcome that inching forward, however slow and small that inching forward may be.

Mr. GARDINER. We look forward to working with you, Senator, on your bill.

Senator SIMON. Thank you.

Senator PRYOR. We thank both of you for coming. This has been meaningful. I hope it is going to result in some constructive action.

Now, the question I have, you are from Illinois?

Mr. GARDINER. No, I am not. I am from Virginia.

Senator SIMON. Arkansas, right?

Senator PRYOR. I thought you said you were on the Illinois board—of what?

Mr. GARDINER. The Firearms—I can't remember the exact name of it, but it is to study the FOID card law in Illinois, and I was put on essentially as an outside expert, I guess.

Senator PRYOR. I see. Well, we are glad to have outside experts.

Senator SIMON. Incidentally, if I may just add, the FOID law in Illinois, which requires that you get cleared for firearms identification, we had last year over 5,000 people who were denied for one reason or another their firearms identification, about 2,800 of them because they had been convicted felons.

Senator PRYOR. Senator Simon has thousands of members of the National Rifle Association in Illinois. I have thousands. I will bet, per capita, per square mile, you have more National Rifle Associa-

tion members in the State of Arkansas than almost any other State. We have a tremendous segment of our population in the NRA.

Now, as a result of this hearing, and my sponsorship and his sponsorship of the Simon proposal, are you going to write a letter to all those people and tell them that we want to take their guns away?

Mr. GARDINER. Not because of that bill.

Senator PRYOR. Are you going to have Mr. Charlton Heston on TV to say that Senator Simon and Senator Pryor are going to take their guns away?

Mr. GARDINER. Well, I am hoping, Senator, that we can sit down with Senator Simon and work out all the problems and the bill will go right through with everybody signing off on it and nobody will have to work on it at all.

Senator PRYOR. Those sponsors on the DeConcini proposal, is this going to be characterized as taking the guns away—

Mr. GARDINER. That is a different matter.

Senator PRYOR [continuing]. For legitimate purposes?

Mr. GARDINER. I am afraid so. For example, the AR-15, which is sitting in front of you here, the sporter version of that, is mandated for use in the Federal civilian marksmanship program and many other types of competitions.

Senator SIMON. Which weapon is that?

Mr. GARDINER. That is a banned—

Senator PRYOR. What do you mean mandated? Who mandated that?

Mr. GARDINER. Dr. Halbrook is one of the experts on that law. I might defer to him.

Senator PRYOR. Which one?

Mr. HALBROOK. The rifle closest to the table—

Senator SIMON. Will you come over and pick it up so we know what we are talking about here?

Mr. HALBROOK. Would you like me to—

Senator PRYOR. Yes, and please don't aim it at us.

Mr. HALBROOK. The AR-15 sporter is this rifle, and it is one of the three types of rifles that can be used in the Federal civilian marksmanship program. It is a semi-automatic-only rifle. It is not an assault weapon. It has no military use because the military requires a fully automatic.

Senator SIMON. I have been in a few contests before with guns. Would it do any great harm if you had a contest without that particular weapon?

Mr. HALBROOK. What would do great harm is that many law-abiding Americans currently own that rifle, and if you made it a felony to possess it, all these people are going to become felons. I can assure you that those—

Senator SIMON. Let's say we grandfather—which I think the DeConcini bill does, I am not sure—ownership but it just says you can't buy them anymore.

Mr. HALBROOK. Well, then you are impacting on other persons who may acquire it. I happen to own a rifle of that type myself, and I don't feel that I am a criminal. And if I give it to my son—

Senator SIMON. I have had some fears about you, Dr. Halbrook. [Laughter.]

Mr. HALBROOK. If I give it to my son, then that makes him a felon, and probably me also because the transfer is probably going to be illegal.

Senator SIMON. The DeConcini bill, let me just state, we particularly were very careful to grandfather in the present owners, I think.

Senator SIMON. I think that is correct.

Senator PRYOR. I think that is correct.

Mr. HALBROOK. Even doing that, you have got a problem with the fact that if my son handles it at a target range, is he in possession of an illegal firearm, or if I want to sell it? I mean, what you are doing is saying, well, we are going to have a privileged group who can continue to own these rifles, and other people who don't own them. And it is perfectly legitimate to own that rifle. Despite the black stock, if you put a wooden stock on that, it would look like a typical hunting rifle. It fires the same cartridge as the hunting rifles, the .223 Remington caliber cartridge. By putting it in the rifle with the black plastic on it makes it no more powerful than any other hunting rifle. It fires the same cartridge.

Senator SIMON. How many shells can you fire without reloading on that?

Mr. HALBROOK. That particular magazine appears to be a 30-round magazine. There are 5-round magazines made for that rifle. That is wholly depending on the magazine, not on the firearm. And, in fact, you could take any semi-automatic hunting rifle, and the sky is the limit in terms of the magazine. You can change magazines with any rifle.

Senator SIMON. But right now that weapon you can fire 30 shots without reloading.

Mr. HALBROOK. That particular clip is. Now, Colt used to sell that rifle with a 20-round magazine. Currently there is another rifle called the Colt Sporter, which only includes a 5-round magazine. So the magazine—and then there is after-market manufacturers as well. Whoever manufactures the rifle, it might have a 2-round magazine. But anybody can make a 20- or 30-round and sell it.

So it is not the rifle. If you wanted to do something about magazine capacity, that is totally irrelevant to the specific rifle. So if you have got a list of evil rifles, like in the DeConcini bill, the rifle itself just is not relevant to the magazine capacity.

Senator PRYOR. Speaking of relevancies of magazines, would you support the banning of high-capacity, large-capacity magazines? Would you support that or oppose that?

Mr. HALBROOK. We would oppose that because there are literally millions upon millions of high-capacity magazines possessed by law-abiding persons in this country, and they have a legitimate use in target shooting. You are not going to go see a target match where people are using 5-round magazines. They are going to be using 20-round magazines.

Senator PRYOR. Mr. Halbrook, you are talking about target shooting. We are the target these days, you know. We are the targets, and the innocent people of this country are the targets.

Mr. GARDINER. You are right, Senator, and that needs to be dealt with. We need a criminal justice system that is working, and ours isn't. Why are these people even out on the streets to begin with? Why do you have people out on the streets who are let out after serving 20 percent of their sentence or 10 percent of their sentence for violent crimes? Those are the kinds of questions that need to be asked. We don't want those people to have these kinds of guns or any kinds of weapons. We think they ought to be in jail serving out their sentences so that they can't prey on innocent people. And we are not doing that in this country.

Senator SIMON. May I ask one final question? We now spend—and we were able to cut it off this fiscal year, but we are spending a huge amount of money, about \$5 million, to have the BATF approve the licenses for people who have already been denied licenses because they have been convicted of a felony. And they come back and say, "I want to get a license to have a gun again." Would the NRA be willing to say there is no reason somebody who has been convicted of a felon should have a gun again?

Mr. GARDINER. Senator, you are talking about the relief from disability provision, not the licensing provision. We believe that that should be paid for by the applicants. As a matter of constitutional law—

Senator SIMON. But forgetting paid for by the applicant, for getting the dollars, do you think somebody who has been convicted of a felony and has been denied the right to have a gun once, that we should go back and say, "Go ahead, you can have a gun"?

Mr. GARDINER. I don't think you can make a blanket statement that no one should. I think there are instances where somebody's conviction is old enough, where it was one time, where the person has shown after many years that he is now a responsible, decent, law-abiding person, that it was a mistake. There should be some mechanism to allow him to have his rights restored.

In fact, I think it is required by the Due Process Clause of the Fifth and Fourteenth Amendments, because what you are doing is creating an irrebuttable presumption that he is never going to be reformed. And the Supreme Court, in a case not involving firearms—involving an Illinois statute, interestingly enough—struck down an irrebuttable presumption. And I think that law applies here as well.

Senator SIMON. Thank you, Mr. Chairman.

Senator PRYOR. The reason this Subcommittee is taking some jurisdictional looks at this is because under the Federal services area or umbrella of jurisdiction is the licensing. And this is what this hearing has been about. It has been about the distribution system.

We are very appreciative of your coming, and I have made a little reference a time or two to how you might characterize our respective positions in Illinois and Arkansas. But another area of jurisdiction this little Subcommittee has is over postal rights. Do you mail out to Illinois and Arkansas under a non-profit—

Mr. GARDINER. Yes, we do.

Senator PRYOR. You do?

Mr. GARDINER. The Post Office has granted us the educational rate.

Senator PRYOR. You mean that you can write back home in Arkansas and tell them that Senator Pryor is going to take their guns away from them and the taxpayers are subsidizing that? Can you do that?

Mr. GARDINER. I don't know the economics of it, but I know that the Post Office has granted us——

Senator PRYOR. I can tell you the economics of it. We are subsidizing——

Mr. GARDINER [continuing]. The educational——

Senator PRYOR [continuing]. Your doing that. Is that educational or political?

Mr. GARDINER. Well, the Post Office considers that when it is done by any 501(c)(4) organization, it is educational. To the best of my knowledge, all the 501(c)(4) organizations have that same rate.

Senator PRYOR. So you mail out under a non-profit label, postage.

Mr. GARDINER. Correct.

Senator SIMON. And if I may add, the second class for your magazines, I think it was 2 years you got \$6.8 million in advertising from arms manufacturers.

Mr. GARDINER. No, we have never gotten that much. That would be the total advertising budget for the magazines. About one-sixth of that, probably, a little less than one-sixth of that would be from the firearms industry.

Senator SIMON. OK. Well, let's just say, then, \$1.2 million from the firearms. That is contrary to the figures I got.

Mr. GARDINER. That would be about right.

Senator SIMON. That goes out with our assistance, then.

Mr. GARDINER. As I said, yes, the Post Office has determined that 501(c)(4) organizations qualify as educational under the postal statutes, and they have granted us the same privileges they have granted every other 501(c)(4).

Senator SIMON. We thank you both. Thank you, Mr. Chairman.

Senator PRYOR. Thank you very much.

Mr. GARDINER. Thank you, Senators.

Mr. HALBROOK. Thank you.

[Whereupon, at 12:47 p.m., the Subcommittee was adjourned.]

APPENDIX

PREPARED STATEMENT OF MR. HIGGINS

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear today and testify concerning the Bureau of Alcohol, Tobacco and Firearms, Compliance Operations oversight of firearms importations and the thrust of our firearms compliance program.

I would like to begin by giving you a basic overview of the licensing requirements for importers of firearms as well as a brief explanation of the importation process applicable to firearms.

Any person desiring to commercially import firearms into the United States must first obtain a Federal firearms license from ATF, which we issue under the authority of the Gun Control Act of 1968 (GCA). If the imported firearms are for resale, the importer must also register with ATF under the Arms Export Control Act. Lastly, importers of National Firearms Act firearms, i.e. machineguns, short barreled shotguns or rifles, etc., must also pay an annual special occupational tax before importing this type of weaponry.

Once the above requirements are met, the importer must apply for and receive an import permit from ATF before firearms may be imported into the U.S. The application must specify the foreign producer, supplier, and the type and quantity of firearm to be imported. If approved, the permit is valid for one year.

Each application for an import permit is carefully reviewed to ensure the firearms listed are eligible for importation. Only those firearms that are deemed to be particularly suitable for, or readily adaptable to sporting purposes, may be imported under the GCA. Any firearm failing to meet this criteria is denied entry. You may recall that it was this "sporting purposes" criteria that led to the ban on the importation of semi-automatic assault rifles in 1989.

In addition to the "sporting purpose" criteria, we review import permit applications to ensure that the firearms were neither produced in nor shipped from a proscribed country. The responsibility for maintenance of the list of proscribed countries rests with the Department of State and is changed when shifts in foreign policy dictate.

When the imported firearms arrive, they are placed into U.S. Customs bond. The importer must present the approved permit to Customs officials, along with release documents crossed referenced to that permit, covering each shipment. If everything is in order, the release is signed by both Customs and the importer and then mailed to ATF.

After taking possession of the imported firearms, the importer has 15 days within which to place on each firearm all the marks of identification required by the GCA. Each must be marked with the name and address of the importer and of the foreign manufacturer, caliber, model designation, if any, and a unique serial number. These are basically the same marks of identification required to be placed on domestically produced firearms, thus ensuring their traceability in the event of their use in a criminal activity.

Once imported, these firearms are treated no differently than their domestic counterparts. Each is subject to the full range of regulatory controls contained in 27 CFR Part 178, including all recordkeeping requirements and restrictions on distribution. One significant difference between foreign and domestically produced firearms should be pointed out, however. Unlike domestically produced NFA firearms, imported NFA firearms are not available for transfer to or possession by the general public.

Since 1986, the number of licensed importers has remained at a fairly constant level of approximately 1,000 which comprises a very small percentage of the nearly 286,000 firearms licensees in the U.S. today. In comparison, the total number of en-

ties licensed to manufacture firearms in the U.S. is also approximately 1,000. Statistically, however, imported firearms made up 20 percent of the total number of firearms placed into the U.S. marketplace in 1990.

At this point, I would like to focus the remainder of my remarks on our current firearms compliance program. Since 1987, the firearms licensee population, on a national basis, has increased by over 21,000 licensees from 262,000 to almost 286,000. However, based on the receipt of applications from October 1, 1992, to the present date, we anticipate an approximate increase of 30,000 licensees this fiscal year alone. We believe this increase is due, in large part, to the recent national media attention focusing on firearms application and licensing procedures. ATF had an equivalent of 209 inspectors regulating these licensees in fiscal year 1992.

In fiscal year 1993 ATF plans to conduct approximately 5,000 full field application investigations and 25,000 firearms compliance inspections. These figures represent a 215 percent increase in firearms inspection activity since 1989, when we conducted over 9,500 firearms inspections. With this increase, we will conduct inspections on approximately 9 percent of the total number of licensees. While our inspections attempt to target those licensees actively engaged in business, we will undoubtedly miss some licensees who should be inspected.

Approximately 1 year ago, in February of 1992, ATF implemented Operation Snapshot. This inspection program was a nationwide random sampling of firearms dealers. The primary function of this program was to reveal informational data about the Federal firearms licensee population. The use of this data will provide both short-term and long-term benefits in planning future operations and providing accurate data to ATF, the Congress, industry organizations, other interested groups, and the public.

As of February 8th, of this year, with approximately three-fourths of the Operation Snapshot inspections completed, we estimate that more than 72 percent of the licensed firearms dealers have their business located in their residence. We also estimate that nearly one-third of all licensees have no inventory of firearms and have not bought or sold any firearms in the preceding 12 months. Of the remaining two-thirds, a majority (60%) have conducted a minimal amount of business (less than 10 transactions).

The number of license applicants is still growing rapidly. In order to address the increasing numbers of licensees and to stem the rising tide of violent crime, we have developed a multi-faceted initiative that is designed to ensure that application and licensing requirements established by the Gun Control Act of 1968 are strictly complied with. To the maximum extent possible, ATF directs its compliance resources to those geographic locations that have higher levels of firearms related violent crime, as demonstrated by published crime statistics and law enforcement analysis, as well as those locations that have proven to be sources of firearms used in criminal activity. In addition, the Bureau promotes compliance in the firearms industry by continuing a vigorous random inspection program designed to ensure that licensees operate in full compliance with the law and regulations.

Preliminary investigations are conducted on all original applications for Federal firearms licenses, regardless of geographic location. Full field investigations are being conducted as warranted by the results of the preliminary investigations.

The focus of these investigations is to ensure that the applicant meets the statutory licensing requirements, including the requirements that the applicant intends to engage in a firearms business and has premises from which to conduct business.

One of the factors contributing to the large number of licensees is the relative ease of obtaining a Federal firearms license. Currently, compliance with State and local laws and ordinances relating to the conduct of a firearms business is not a precondition to the issuance of a Federal firearms license. Instances of non-compliance with State and local laws are referred to the appropriate agencies. State and local officials look to ATF for assistance on these cases, however, under current law, ATF must issue licenses even in situations where we may have every reason to believe that the business will be operated in violation of State or local law. For example, if ATF is aware that an applicant's proposed business would violate local zoning laws or other State or local laws regulating the business activity, these violations would not, in and of themselves, be grounds for license denial.

We are also criticized for issuing licenses to disreputable persons. However, ATF cannot deny an application based on the reputation of an applicant. If, for example, an applicant has an arrest record for violent or drug trafficking offenses, but no felony convictions, or an individual has a history of mental illness, but has never been adjudicated mentally defective, ATF cannot deny that individual a license.

ATF faces an additional obstacle in that positive identification of applicants can only be verified through full field investigations. In Fiscal Year 1993, full field in-

vestigations will be conducted of about 17 percent of all new firearms applications. All applicants receive a computerized criminal history check. However, if an applicant submits false information, and no field investigation is performed to verify that data, the criminal records check may not detect the fraudulent submission. Criminal history networks will also not provide information on other possible bases for denial of a license, such as adjudicated mental incompetence, unlawful use of a controlled substance, or an alien unlawfully in the United States.

The low cost of the Federal firearms license also contributes to the ease with which they are obtained. The license fee is not sufficient to discourage application by those individuals who desire to purchase firearms at wholesale price for their personal use, or who may under certain circumstances, use a license to circumvent State or local requirements. Additionally, when inspection costs are considered, the \$10 fee does not cover the cost of administering the licensing program.

As evidenced by our gun tracing efforts, Federal firearms licensees are frequently associated with the distribution of guns used in criminal activity. This is not to suggest that all such licensees are violating the law. Therefore, ATF is directing its compliance inspection program to address this issue. This is being accomplished by inspecting those licensees suspected of involvement in criminal activities, licensees that have an inordinate number of firearms involved in criminal activity traced to them, those with a history of non-compliance, and a random selection of licensees to ensure compliance with the Gun Control Act. The primary goal of these inspections is to ensure compliance with Federal laws and regulations by reviewing the various required records, reconciling any inventory on hand to those records, and detecting the acquisition of firearms by prohibited persons.

These inspections help maintain the integrity of the firearms tracing system, detect illegal sales or operations and result in referrals to law enforcement agencies.

Increasing our effort to combat the rising tide of violent crime in the United States, ATF has identified forty-three high crime areas for intensified inspection activity. Compliance inspections will be conducted of all Federal firearms licensees that are located within an identified high crime area whose licenses are due for renewal in 1993. These inspections will determine if the licensee is engaged in a firearms business, whether the licensee has adequate premises from which to conduct these activities, and whether they are operating in compliance with applicable laws and regulations.

Further, ATF is utilizing data from our National Tracing Center that identifies the last licensee involved in the distribution chain of firearms traced from the high crime areas. Inspections of these licensees, and those located in proximity to them, are being conducted to disclose potential traffickers of firearms into the identified high crime areas. Licensees not targeted from tracing reports, but located along known firearms trafficking corridors will also be inspected. In all inspections, ATF attempts to identify firearms purchases made by armed career criminals, narcotics traffickers, and persons with felony convictions.

Another problem confronting ATF in overseeing firearms licensees is that section 923(g) (1)(B) (ii) of the Gun Control Act of 1968, limits ATF to one warrantless inspection within a twelve month period to ensure compliance with recordkeeping requirements. It is essential for licensees to remain in compliance with these provisions to enable ATF to trace firearms used in the commission of crimes in an expedient and accurate manner. The results of Operation Snapshot, referenced in earlier testimony, disclosed that over one third of the licensees inspected were cited for recordkeeping violations. This would indicate a potentially serious recordkeeping problem of FFLs which could inhibit the traceability of firearms.

As previously stated, ATF is limited to a single annual inspection, without a warrant, for the purposes of verifying compliance with recordkeeping requirements. This restriction hinders the effective administration of the regulatory requirements concerning firearms recordkeeping and conduct of business. More effective enforcement could be achieved with timely follow-up to either correct non-compliance with requirements or to establish a record to revoke a non-compliant licensee.

In summary, the number of Federal firearms licensees has grown significantly over the past twenty years. While the population of FFLs actually engaged in the business is much smaller, we do not have an effective way to focus upon that group. ATF has used innovative approaches to target those most likely to violate Federal law and in so doing has assisted in the fight against violent crime. Still, we must admit that our efforts will not provide the degree of effective regulation we strive for.

Thank you for the opportunity to express our views to you on these very significant issues. I will be happy to take your questions at this time.

PREPARED STATEMENT OF DEWEY R. STOKES SUBMITTED BY MR. CAHILL

Mr. Chairman, Committee Members: I welcome this opportunity, on behalf of the members of the National Fraternal Order of Police, to address a critical issue: federal firearms licensing and importation policies. This is literally a life-and-death issue to thousands of Americans as well as rank-and-file law enforcement officers.

First, let me make it clear that I cannot praise the efforts of the Bureau of Alcohol, Tobacco and Firearms enough. For over a decade, and with limited support, they have carefully utilized their scarce resources to become one of the major Federal players going after violent crime. There is not a more capable, effective, or efficient agency able to coordinate with State and local law enforcement agencies than the ATF. They perform a hard and dangerous job every day, and it hardly makes a ripple. That is how good they are. But they know, and I know, that some of what they have had to clean up after could have been prevented.

Sometimes people forget that law enforcement's main objective is the prevention of crime. Frankly, prevention costs less. What ATF needs is more authority on the side of prevention. That authority does not threaten the rights of the law-abiding; rather it protects them.

Our democratic system is still the best ever devised. Flaws rise to the surface in our system, and that gives the people and their elected leaders the opportunity to make corrections.

When the late President Lyndon Johnson wanted to get to the heart of an issue he would say, "Tell it with the bark off." I am going to talk about the firearms business with "the bark off." No sugar coating—just realities.

The fact is that our firearms licensing and import policies are badly flawed, and these flawed policies contribute significantly to the climate of lawlessness and fear that is pervasive throughout these United States. We did not intend this, but it has happened. An ugly problem has surfaced—in plain sight—and demands attention.

How we deal with firearms, in my view, bears directly on our nation's future. The United States is becoming to be perceived in the eyes of its citizens, and in the eyes of the world, as a nation where lawlessness is rampant and life is cheap.

To meet this challenge, I believe we must overhaul our system of buying and selling firearms. This will not be easy because firearms fuel a profitable, multi-billion dollar industry. But the system can and should be improved.

Let me suggest some common-sense solutions to our firearms licensing and importation problems; solutions that will not bust the budget. They may, however, stop some of the fly-by-nights who purchase a license and deal firearms out of their homes and garages.

Fees. Fees for federal firearms licenses are codified in law and have not gone up since 1968. A firearms dealer license was \$10 a year then, and is \$10 today. The true cost for all the processing must be hundreds of dollars for each licensee. Taxpayers are subsidizing these firearms licensees and that is wrong. Reasonable increases in firearms license fees are in order, at least sufficient enough to cover administrative processing expenses.

Standards for licenses. In essence, anyone who is not a felon can get a firearms license. You can have mental problems, a long history of misdemeanor assault arrests and absolutely no capability of operating a legitimate firearms dealership, and still get a license. Since ATF is only allowed 45 days in which to issue a license, many of the other categories of prohibited persons, such as habitual drug users, who could only be found out through a rigorous field check, can slip through undetected.

This is one reason we have almost 300,000 firearms licensees in the U.S. With a mounting federal deficit, it is not realistic to believe that our nation will pony up the resources to hire more regulators to regulate 300,000 firearms licensees. Why should we? A better answer is to toughen the standards for these licensees. Then the number will gradually decline to a reasonable level of legitimate firearms dealers.

Compliance with state law and local ordinances. A lot of people think that federal firearms licensees have to comply with state laws and local ordinances—they are wrong. Every day thousands of firearms licensees intentionally or unintentionally violate local zoning, fire, safety and other ordinances as well as state laws. More than two-thirds of firearms dealers operate from their homes in residential areas across America.

What we have here is a federal law that promotes disorder at the state and local levels. The loss of state and local tax revenue is bad enough, but the denigration of public safety that flows from this policy is even worse. This is an unfortunate situation and we ought to correct it.

Security and theft. Firearms licensees are not required to have secure premises or to report the theft of common firearms to law enforcement authorities. This is poor policy that is counterproductive and accounts for some of the so-called "black market" weapons available to the criminal element.

Firearms imports. Laws work best when they treat everyone the same. I believe our policy on domestic and imported firearms should be in harmony. For example, we ban imported assault-type firearms and small "Saturday Night Special" firearms because they have no "sporting purposes." Yet we permit sales of identical firearms made in the U.S. There is no consistency, no fairness, no logic in this policy and it ought to change. If imported firearms need "sporting purposes," so do domestic firearms.

Although I appreciate the fact that we want to encourage the spread of free, representative governments around the globe, I don't understand why we have to accept cutrate, military-patterned firearms as almost a first priority. SKS rifles from China and CZ 9mm pistols from Eastern Europe are providing high-tech firepower at "Saturday Night Special" prices. In Massachusetts, an 18 year old student from Montana buys a SKS rifle over the counter, goes back to his school and begins gunning down classmates and teachers.

Can our manufacturers sell guns to the citizens of those countries?

Firearms sales. I save this issue for last because it's probably the most volatile one we will consider today. Generally, we sell guns in the U.S. on the honor system. Sure, the buyer fills out a form at the gun dealer's shop. But if the buyer is willing to lie or get a buddy to buy for him, then he can get all the guns he wants. John Dillinger, Clyde Barrow, Ma Barker, Pretty Boy Floyd and Machine Gun Kelly would have no trouble buying guns in America in 1993.

Finally, a question that a lot of Americans ask: How many guns were sold in the United States in 1992, 1991, or any year?

I wondered why no one in government had an answer. Then someone pointed to the Gun Control Act, and there in Section 926 I found the reason. That's the section that says federal regulators will not gather any information on firearms transactions or dispositions. I wonder how we can effectively regulate an industry if we do not know how large it is or where most of its products go? I think our presence here today answers the question.

Mr. Chairman, the firearms business requires more accountability and oversight. Firearms ownership should demand a high degree of responsibility.

The members of the Fraternal Order of Police would be encouraged if our firearms laws helped to foster more accountability and responsibility. If our country fails to adopt more rational firearms policies then, by default, we slide downhill into more violence, more idling, more chaos. And that means more danger for my members as well as all Americans.

Thank you for this opportunity to testify. I will be pleased to answer any questions you may have.

PREPARED STATEMENT OF MR. GARDINER

Mr. Chairman and Members of the Committee, I appreciate having the opportunity to testify today. My name is Richard Gardiner and I am the Legislative Counsel for the National Rifle Association of America. I have dealt extensively with the law on Federal firearms licenses (FFLs) from a legislative and a litigation perspective, and am aware how and why the current system was developed. I am also aware of the impact which changes to the current system will have on FFLs.

At the outset, I should emphasize that the NRA is, like everyone else here today, interested in having a responsible and fair firearms licensing policy. Without exception, the NRA is willing to work with Members of Congress or of the Administration to craft legislation which both addresses the genuine needs of law enforcement to achieve real crime control and, at the same time, upholds the rights of law-abiding citizens and firearms dealers.

Let me begin by expressing the NRA's neutrality regarding the question of whether allowing importation into this country of products manufactured by the Chinese military is an appropriate policy. In our view, this is a foreign policy issue, not a question of the Second Amendment rights of Americans nor, based on the criminological data available, a crime control issue. Organizationally, we believe it is, or perhaps should be, instructive to those who would disarm the American people that, in a country in which thousands, and perhaps tens of thousands, of young people were slaughtered by the government a few short years ago, the only people who have firearms are the military and those firearms are produced by slave labor.

In regard to the issue of firearms importers licenses, we support, and will continue to support, the right of law-abiding citizens to import lawfully produced products into our country. Under current law, a person who obtains an importer's license from the Bureau of Alcohol, Tobacco, and Firearms (BATF), may import firearms into this country that are "generally recognized as particularly suitable or readily adaptable to sporting purposes," rifles and shotguns that are "curios and relics" as defined by BATF, and handguns that are "curios and relics" if they also meet the "sporting purposes" test. To import a firearm, the licensed importer must apply for, and receive, specific authorization from the BATF. It is under this law that firearms manufactured in China are imported. I might note that many of the imported firearms are semi-automatic firearms, which are the primary competition firearm produced today, are a mainstay of any firearms collection, having been produced for over one hundred years, and remain a tool of self-defense for millions of decent, honest Americans and their families.

I might further note that there is no evidence that these firearms, are at present, a significant factor in, or becoming a significant factor in, crime in the streets. To those who suggest otherwise, let them come forward with the empirical data to buttress their claims. NRA has repeatedly urged Congress and the Executive branch to request from the states information concerning the makes and models of firearms that are used to commit violent crimes so that the notion that certain types of firearms are used to commit violent crimes can be put to rest.

Turning to what NRA believes are appropriate reforms of the Federal firearms licensing system, I should first point out that it is undisputed that the vast majority of firearms licensees are honest, hard-working citizens who strictly comply with Federal law. Certainly there has not been shown to be wholesale dishonesty or abuse in the firearms business in this country, or that current laws need to be dramatically strengthened, rather than actually enforced. To those who suggest otherwise, would urge that they examine the empirical evidence. For instance, how many FFL licenses have been revoked, how many gun trafficking charges have been prosecuted against firearms licensees, and what is the average sentence that has been levied on offenders? Obviously, if the law is being seriously enforced this data should be available for review. The absence of such data should signal to an objective observer that there is either not a problem, or that those charged with enforcing the law are not taking the problem seriously.

I should also point out that the large volume of dealer licenses was an intended consequence of the 1968 Gun Control Act. As those who were involved in the passage of the 1968 Gun Control Act will remember, the FFL process was devised in response to the prohibition on the inter-state sale or transfer of firearms. When the inter-state sale or transfer of firearms was banned, Congress created the FFL to ensure that no monopolies were created. In fact, it would not be incorrect to say that the original purpose of the FFL license was to create a sufficient number of FFL dealers, keeping records of all transactions, to ensure that legal supply of firearms could meet legal demand at reasonable prices so as not to make firearms ownership the exclusive realm of the wealthy.

In keeping with that model, BATF's enforcement and inspection powers were written to allow annual unannounced inspections on every dealer, and unlimited inspections when conducted in conjunction with a criminal investigation. Those who suggest that this inspection power is somehow inadequate are confusing enforcement power with lack of enforcement. The problem is not that the BATF does not have the power to inspect dealers—but rather that they lack the manpower. So, too, with the BATF's ability to investigate and issue FFLs. If there is a flaw in the current system it is, again, in lax enforcement, and/or the lack of enforcement. Any suggestion that BATF requires unlimited time is insupportable. In fact, a recently released GAO report found that, except in a very few cases, the 45 day maximum time period is more than adequate.

The first reform that the NRA would like to suggest relates to the theft of firearms. NRA believes that trafficking in stolen firearms is a serious crime, and deserves to be treated as such. Specifically, we believe that, until criminal behavior is penalized commensurate with the actual impact of the crime, such behavior is going to increase. That is why we would like to see Federal legislation making it unlawful for a person to steal, take, and carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate commerce. We also believe that any person who commits such an offense during any robbery or riot should be sentenced to imprisonment for thirty years, no part of which may be suspended or, if a death results, to life imprisonment without release or to death.

Second, we believe that applicants for an importer's, manufacturer's, or dealer's license should be required to submit fingerprints for the purposes of conducting a criminal record check. By no stretch of the imagination do we believe, however, that such a requirement should be extended to any transactions involving private citizens, and would strenuously oppose such an extension.

Third, we believe that the types of firearms a person holding a collector's license can collect should be expanded so that collectors will be encouraged to obtain the collector's license. BATF can therefore concentrate its inspections on true retail dealers. Collectors obtain firearms for their personal collection and not for a business inventory and retail sale.

Fourth, we would support a requirement that notification of the application for an FFL be provided to local law enforcement. Past and current legislative proposals to require approval by the local chief law enforcement officer before the issuance of an FFL are entirely inappropriate. When similar approval requirements have been mandated in the past, the rights of law-abiding individuals have been subject to abuse. It is instructive to note, moreover, that such approvals cannot be mandated by the Federal Government under the U.S. Constitution. Requiring notice removes the potential for arbitrary abuse, while continuing to provide information to ensure compliance with local and state ordinances. Moreover, the process removes BATF from the equation in what is not an issue of Federal concern.

Fifth, we would support increases in the fees for FFL licenses, but certainly not to the levels suggested in S. 496, recently introduced by Senator Simon, that would increase the fees seventy-five times current levels.

Sixth, we support a measure to help prevent the theft of firearms by limiting the unnecessary Interstate shipping of firearms. BATF currently maintains that a licensee may not personally transfer a firearm to another licensee in a face to face exchange, but must ship it from his licensed premises by common carrier, thereby exposing it to the risk of theft. We believe that a licensee should have the right to transfer or deliver firearms to, and receive firearms from, another licensee at any location without regard to the State which is specified on the license, thereby preventing thefts of firearms shipments between licensees.

Seventh, we believe that adequate notice should be provided to all licensees of state laws, revoked licenses, and regulations. § 110(a) of the Firearms Owners' Protection Act, P.L. 99-308, 100 Stat. 460-61 (1986) provides:

[T]he Secretary shall publish and provide to all licensees a compilation of the State laws and published ordinances of which licensees are presumed to have knowledge pursuant to chapter 44 of title 18, United States Code, as amended by this Act. All amendments to such State laws and published ordinances as contained in the aforementioned compilation shall be published in the Federal Register, revised annually, and furnished to each person licensed under chapter 44 of title 18, United States Code, as amended by this Act.

Despite this command, and BATF's own regulation, 27 C.F.R. § 178.24, the last compilation of State laws provided by BATF to licensees is dated 1989. BATF has never provided to licensees any amendments to the State laws, much less done it on a yearly basis. Yet knowledge of State laws by licensees is necessary for compliance with the Gun Control Act.

In addition, BATF has no mechanism to inform licensees that a particular dealer's license has been revoked. § 926(a) provides that the Secretary may prescribe regulations providing that a licensee shall provide to another licensee a certified copy of his license, and for the issuance of certified copies. See 27 C.F.R. § 178.95. The transferee of a firearm must furnish a certified copy of his license to the transferor, who may rely on that license until it expires. 27 C.F.R. § 178.94.

Finally, BATF has no regular mechanism to notify licensees of rules, regulations, and rulings. The latest compilation of Federal regulations and rulings provided by BATF to licensees is dated 1988.

In the interests of both fairness and law enforcement, BATF should provide to licensees, on a timely basis, amendments to State laws, notice of revoked licenses, and notice of regulations and rulings. In view of the fact that such a requirement for annual notice has been ignored by BATF each year since 1989, such requirements must be coupled with mechanisms to make BATF follow Congress' commands. What we propose is that:

—In addition to such other requirements of law as may be applicable, no rule or regulation shall be effective until thirty days after being mailed to all persons licensed under this chapter.

- The Secretary shall publish and provide to all licensees a compilation of the State laws and published ordinances which are pertinent to compliance with this chapter. Each year thereafter, the Secretary shall publish and provide to licensees all amendments to such State laws and published ordinances. Failure of the Secretary to do so would create a rebuttable presumption that the licensee had no knowledge of the applicable law.
- The Secretary shall publish and provide to all licensees, not less than on a quarterly basis each year, all official rulings concerning this chapter and concerning chapter 53 of Title 26, United States Code.
- The Secretary shall publish and provide to all licensees, at such times as he shall deem necessary, the names and license numbers of all revoked firearms licensees.

I would finally like to turn to Senator Simon's bill, S. 496, which would make substantial changes to the current FFL system. Some of the "reforms" which the bill suggests as necessary will not only have a detrimental impact on the conduct of legal firearms transactions, but will also lead to an increased incidence of theft and illegal firearms trafficking and black market activity.

Mr. Chairman, there are sections of the Simon bill that we can support, there are provisions with which we do not agree, and we will tell you exactly why, and there are particular areas that Senator Simon touches on in which we believe the process should be strengthened.

POINT-BY-POINT ANALYSIS OF S. 496

Section 1, "Identification of Recipient of Firearm," would amend Section 922(e) in two interrelated ways. First, it would require a person to notify a common carrier that the person is shipping a firearm to a licensee, such as to a manufacturer for repair of a firearm. Current law does not require such notice, and with good reason. Firearms, like cash, jewels, drugs or a host of other products are a fungible commodity. Current law helps prevent theft by employees of the common carrier, because a shipper need not disclose the nature of the article being shipped.

There are no exact figures for the amount of firearms which are stolen each year moving in commerce, but just last year some 850 firearms were stolen from a UPS driver in Alexandria, Virginia. All rhetoric to the contrary, an unloaded firearm is not an inherently dangerous item to be transported at the peril of the carrier, such as hazardous chemicals or nuclear materials. Attaching a "this box contains a firearm" label in the real world, as S. 496 suggests is appropriate, is roughly analogous to attaching a "steal this box" label. We believe that legislation expressly forbidding identification of a container as containing a firearm is far preferable.

The second part of Section 1 would make it a crime for a common carrier not to identify the person to whom a firearm is delivered. Current firearms law requires that firearms transported in interstate shipping be conveyed only to lawful parties. If there is a problem with fraud, or receipt by an unlawful party, it is impractical to place a burden of knowledge on a common carrier that is not sustained by the original transferor. While we understand and agree with the intent of this section, we believe that the language can be improved upon to remove ambiguity and clarify the exact duties of common carriers when delivering firearms. Thus, we would support language which would require the signature of the recipient of a firearm, an already common practice in the industry.

Section 2, "Sale of Firearm or Ammunition Having Reasonable Cause to Believe it will be Used by Another Person to Commit a Crime of Violence." Section 2 would further criminalize what is already a serious felony under state homicide law, which punishes an accessory before the fact, conspirators, and aiders and abettors. We agree with the ostensible intent of the section, and urge only that language be inserted to maintain the interstate commerce nexus of current Federal law.

Section 3, regarding the "License Application Fees for Dealers" is unreasonable and excessive. We agree that there should be an increase in the fee, particularly since the fee for an FFL has not increased since 1968. However, in proposing a fee of \$750.00 the drafters of this legislation are unaware of the realities of the current firearms industry. \$750.00 may be a pittance in Washington D.C., but at the general store in Clifton, Tennessee, or Piggot, Arkansas or Grafton, Illinois it is the difference between keeping the odd shotgun or rifle for your local customers and making them drive to the Wal-Mart. A fee increase to \$50 per year we believe is a fair increase. Certainly, if evidence is presented to justify a larger increase, we would consider it objectively. However, using licensing fees to drive out the smaller dealers is entirely inappropriate.

Section 4, "Action on the Application for License." This section would repeal Section 923(d) (2). This particular change highlights a rather sad irony. As currently written, the provision requires the Secretary to act on a license in 45 days; allows a person to sue for a writ of mandamus to require the Secretary to act on the license if the Secretary does not do so; and requires the Secretary, once he approves the application, to issue the license upon payment of the fee. These requirements are necessary to protect the due process rights of applicants. We would support, however, extending the time period, in line with what the actual time required to do a thorough background check, although we would object strenuously to leaving the time frame open-ended and therefore subject to abuses.

The irony to which I previously referred, is that some of the proponents of the Brady Bill—of which Senator Simon is one—which requires a 5-7 day wait, depending on the version of the bill, argue strenuously that this is adequate time to do a background check on handgun purchasers. Yet, some of those same individuals supporting this bill, now appear to be arguing that multiplying the time period by 6-9 times is inadequate. It would be interesting, and perhaps instructive, to discover the rational for such an inconsistency.

In regard to Section 5, "Compliance with State and Local Law as Condition to License", we believe this puts the Federal Government in the business of interpreting thousands of often complex and changing zoning ordinances that are within the purview of local civil authorities and are not even local law enforcement matters. Federal regulations should remain focused on the enforcement of laws that seek to prevent the acquisition of firearms by criminals, the ostensible rational for introducing this legislation.

As an alternative, and in addressing an ongoing concern regarding obedience by FFL holders of local and state ordinances, we propose that an applicant show evidence of having notified local authorities. We believe that this is both the most feasible and fair mechanism for insuring compliance by an FFL holder. Moreover, it should serve notice to, and help to screen those applicants who are attempting to receive or conduct a firearms business under false pretenses.

Section 6, "Inspections of Firearms Licensees." This would delete current federal requirements that compliance inspections take place no more than once every year. Obviously our concern with this provision centers on balancing the reasonable requirements of law enforcement with the necessity of being free from unnecessary harassment. Under current law, BATF may conduct an unannounced yearly inspection of any FFL dealers records and inventory at any time. Additionally, BATF has access to the records and inventory of the licensee at any time to conduct bona fide criminal investigations. Given the demands an inspection may place on an FFL holder and his business establishment in providing access to an agent or a team of agents, it is not unreasonable to require that such inspections be limited to the actual need to conduct them.

Section 7, "Reports of Theft or Loss of Firearms." We believe that it is not appropriate to treat theft and loss equally; penalties for not reporting losses should not be included. First, licensees already have every incentive to report firearm thefts to local authorities, who are free to contact BATF should any need arise. As a practical matter, BATF is hardly in a position to collect, collate, store, or even to access information on stolen firearms within 24 hours. It is unjust to punish a crime victim with a felony—again involving severe criminal penalties for non compliance—for not reporting the crime within 24 hours. We would, therefore, urge that the time to report thefts be expanded to a more reasonable 5 business days and that the report be made either to the BATF or the chief law enforcement officer of the locality.

In regard to requiring that the "loss" of a firearm to be reported within 24 hours, there are a few points which should be raised. First, it is hard to discover what purpose is served by to this provision. As a matter of routine business, large firms frequently cannot locate inventory on their premises for commercially reasonable periods of time. The important fact remains that such items remain within the control of the business and, as such, may normally be expected to be located in time; a criminal penalty is unwarranted. It must also be remembered that a felony penalty, for which the sentence is in excess of one year's time, permanently bars the owner of a firm from continuing in business. To levy such a penalty would result not only on a hardship for an individual but would extend to other individuals dependent on the firm for employment.

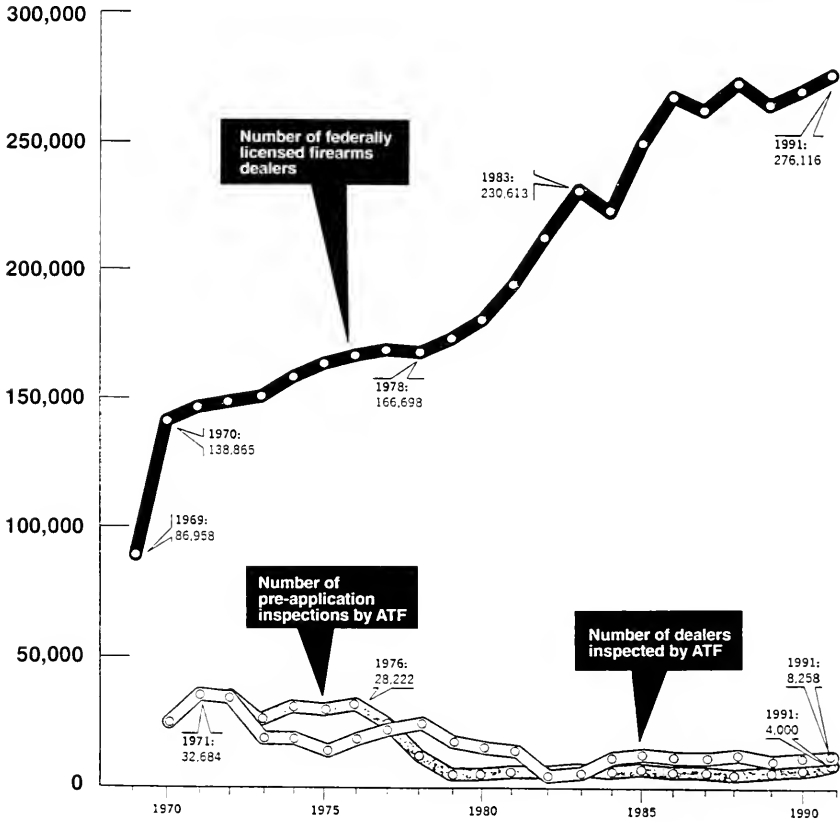
Section 8, "Responses to Requests for Information." Currently, licensees already communicate with BATF in connection with lawfully conducted traces. Thus, we would have no objection to this proposal if it was made clear that the request had to be in writing or in person to ensure that it was the BATF communicating with li-

censees. In addition, the proposal should make clear that it applies only to traces of firearms in the course of a bona fide criminal investigation.

Section 9, "Registration to Require a Photograph and Fingerprints." We concur with this proposal.

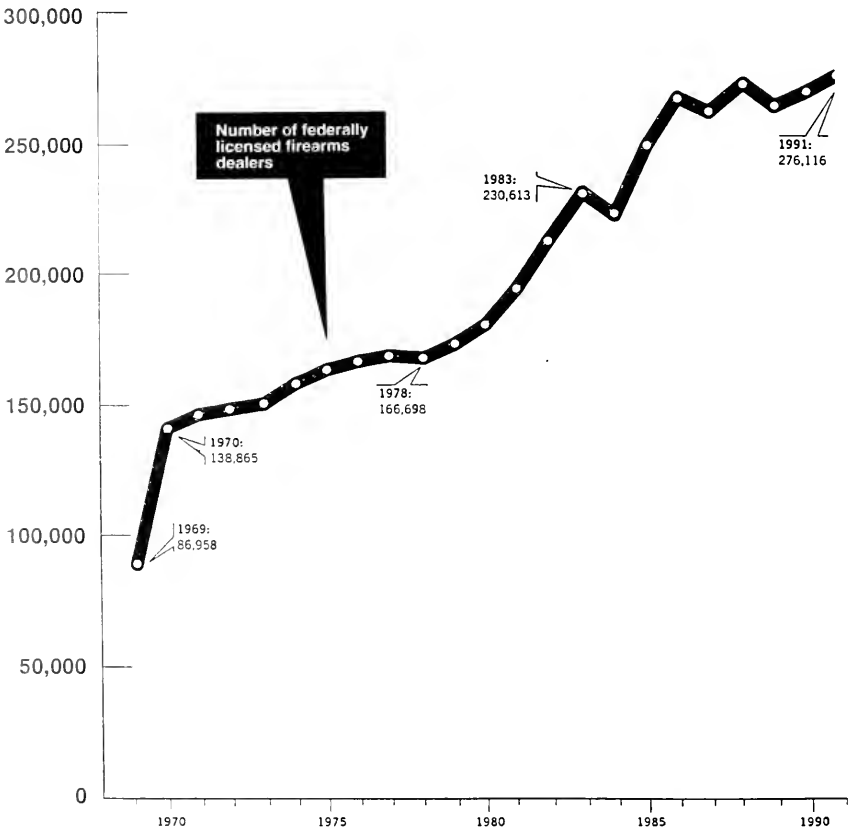
In closing Mr. Chairman, we support many of the provisions of S. 496 and general reforms to the FFL process and stand ready to assist in the drafting of more responsive provisions where we do not agree.

BATF Able to Inspect Less Than 10% of Licenses



Source: Washington Post

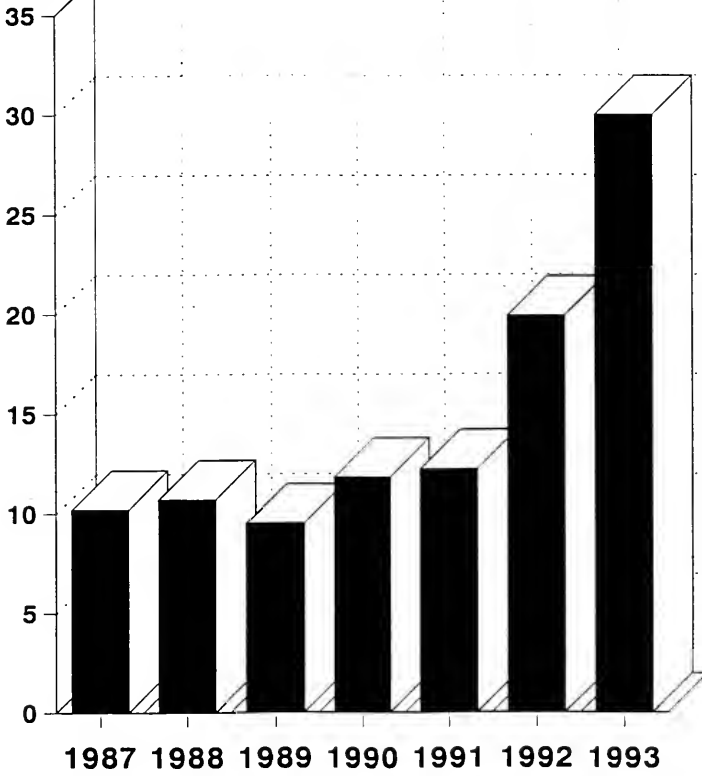
Firearms Licenses Have Increased 99% Since 1970



Source: Washington Post

Firearms Compliance and Application Inspections - Totals 1987 to 1993

Thousands

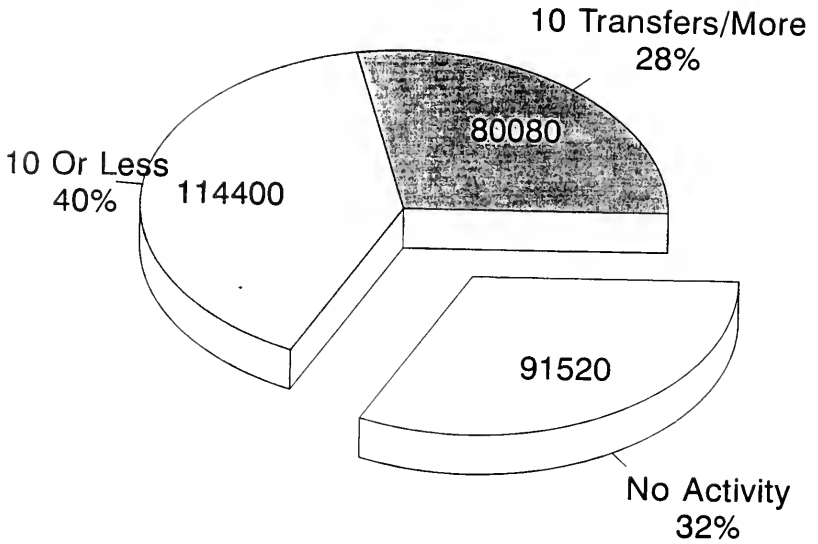


10.2	10.7	9.5	11.8	12.2	19.9	30
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(Projected)

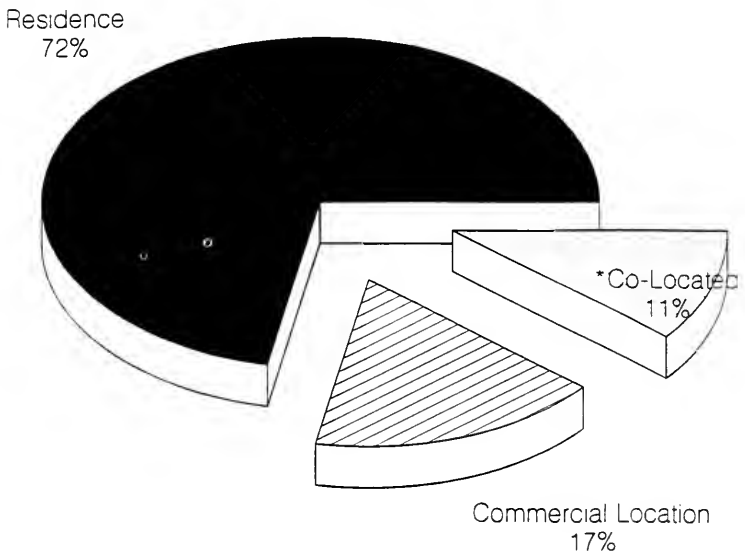
Business Activity

2/92 - 2/93



Baseline - 286,000 Licensees

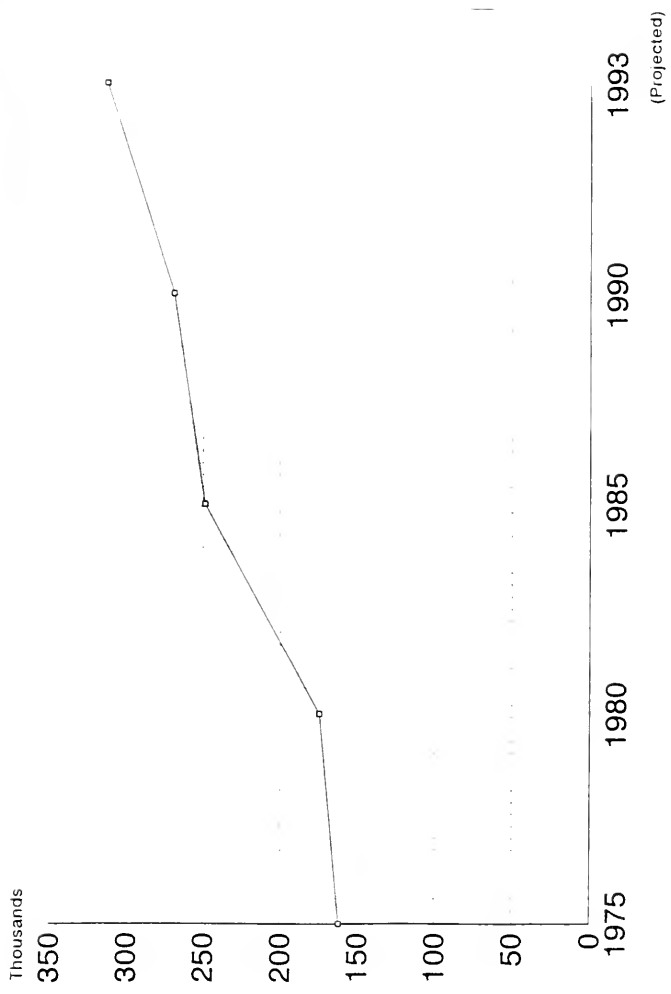
Federal Firearms Licensees Premises Locations



*Misc-commercial, autoparts, medical and other business not usually associated with firearms business.

Total Federal Firearms Licenses

Years 1975 to 1993



DEPARTMENT OF THE TREASURY - BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
APPLICATION FOR LICENSE
 UNDER 18 U.S.C. CHAPTER 44, FIREARMS

INSTRUCTION SHEET FOR ATF FORM 7

(Detach this instruction sheet before submitting your application.)
 ALL APPLICATIONS ARE TO BE SUBMITTED WITH FEES TO
 THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

P.O. BOX 845219
 DALLAS, TEXAS 75284-5219

1. Issuance of your license under 18 U.S.C. Chapter 44 will be delayed if the fee is omitted or incorrect, or if the form submitted is incomplete or otherwise improperly prepared. This application should be submitted at least 45 days prior to the date that the license is required.

2. Submit the original of ATF Form 7 and total fees to the Bureau of Alcohol, Tobacco and Firearms post office box listed above. (CAUTION: Submission of this application does NOT authorize you to engage in any of the activities covered by the requested license. A license must be received before operations are commenced.)

3. PRINT with ball-point pen or typewriter (except for signature at end). If separate sheets are needed, they must be

- Identified with your name and address at the top of the page, and
- Referenced by the question number being expanded.

4. A license will not be issued to an applicant who intends to conduct his firearms business from a private residence unless his firearms business premises is accessible to the public; that is, the clientele that the business is set up to serve. If a license is issued, ATF officers will have access to the firearms business premises during business hours and this access includes entry into the non-public portion of the residence, if necessary. Thus, business hours must be supplied.

5. A license under 18 U.S.C. Chapter 44

- Will NOT be issued to an applicant who intends to engage in a firearms activity not covered by the license applied for. (Describe your intended activity in Item 15.);
- Is NOT a license to carry, use, or possess a firearm, and
- Confers NO right or privilege to conduct business or activity contrary to State or other law.
- Is NOT required to sell ammunition only.

6. Make your check or money order payable to the Bureau of Alcohol, Tobacco and Firearms. Include your employer identification number or social security number on the check or money order. See Item 10 of ATF Form 7 for the correct fees. Postdated checks are not acceptable. Licenses are issued for a period of THREE YEARS. No refund of any part of a license fee shall be made where the operations of the license are, for any reason, discontinued during the period.

- MULTIPLE LICENSES - You can apply for more than one license by checking more than one Type in Item 10, provided that the fee for each Type is paid and the business is to be conducted at the same location.
- MULTIPLE LOCATIONS - A separate application and license fee is required for the business at each location.

7. RESPONSIBLE PERSONS - As used at Item 18, means:

- In the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management, policies, and buying and selling practices of the corporation, partnership, or association, insofar as such management, policies and buying and selling practices pertain to firearms; and
- In the case of a corporation, association, or similar organization, any person owning ten percent or more of the outstanding shares of stock issued by the applicant business; and
- In the case of a corporation, association, or similar organization, the officers and directors thereof.

8. The certification in Item 22 must be executed (signed) by the owner, a partner, or in the case of a corporation, association, etc., by an officer duly authorized to sign for the applicant.

9. Applicants intending to engage in business involving National Firearms Act (NFA) weapons must also pay special (occupational) tax prior to beginning business involving these weapons (26 U.S.C. 5801). For information, contact the NFA Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226.

10. Applicants intending to import handguns and rifles must register with ATF under the provisions of the Arms Export Control Act of 1976. Application for registration is made on ATF Form 4587 (5330.4).

11. ATF will:

- Issue a license if your application is approved; or
- Advise you in writing of the reasons for denial of application and return the fee.

12. IF YOU HAVE ANY QUESTIONS relating to this application, please contact the ATF Licensing Center, PO Box 2994, Atlanta, GA 30301-2994. Toll free 1-800-368-5423.

PRIVACY ACT INFORMATION

The following information is provided pursuant to Section 3 of the Privacy Act of 1974 (5 U.S.C. § 552a(e)(3))

1. **AUTHORITY:** Solicitation of this information is authorized pursuant to 18 U.S.C. § 923(a) of the Gun Control Act of 1968. Disclosure of this information is mandatory, if the applicant wishes to obtain a Federal firearms license.
2. **PURPOSE:** To determine the eligibility of the applicant to obtain a firearms license, to determine the ownership of the business, the type of firearms or ammunition to be dealt in, the business hours, the business history and the identity of the responsible person in the business.
3. **ROUTINE USES:** The information will be used by ATF to make determinations set forth in paragraph 2. In addition, information may be disclosed to other Federal, State, foreign and local law enforcement and regulatory agency personnel to verify information on the application and to aid in the performance of their duties with respect to the enforcement and regulation of firearms and/or ammunition where such disclosure is not prohibited by law. The information may further be disclosed to the Justice Department if it appears that the furnishing of false information may constitute a violation of Federal law. Finally, the information may be disclosed to members of the public in order to verify the information on the application when such disclosure is not prohibited by law.
4. **EFFECTS OF NOT SUPPLYING INFORMATION REQUESTED:** Failure to supply complete information will delay processing and may result in denial of the application.

The following information is provided pursuant to Section 7(b) of the Privacy Act of 1974

Disclosure of the individual's social security number is voluntary. Under 18 U.S.C. § 923(a), ATF has the authority to solicit this information. The number may be used to verify the individual's identity.

PAPERWORK REDUCTION ACT NOTICE

This request is in accordance with the Paperwork Reduction Act of 1980. The information collection is used to determine the eligibility of the applicant to engage in certain operations, to determine location and extent of operations, and to determine whether the operations will be in conformity with Federal laws and regulations. The information requested is required to obtain or retain a benefit and is mandatory by statute (18 U.S.C. 923).

The estimated average burden associated with this collection is .95 hours per respondent or recordkeeper, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to Reports Management Officer, Information Programs Branch, Room 7011, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington D.C., 20226, or the Office of Management and Budget, Paperwork Reduction Project (1512-0042), Washington, D.C., 20503.

DEPARTMENT OF THE TREASURY BUREAU OF ALCOHOL, TOBACCO AND FIREARMS APPLICATION FOR LICENSE UNDER 18 U.S.C. CHAPTER 44, FIREARMS		FOR ATF USE ONLY	
1. NAME OF OWNER OR CORPORATION (If partnership, include name of each partner)			
2. TRADE OR BUSINESS NAME, IF ANY		3. EMPLOYER IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER	
4. NAME OF COUNTY IN WHICH BUSINESS IS LOCATED		6. BUSINESS LOCATION (If no street address in item 3, show directions and distance from nearest P.O. or city limit)	
5. BUSINESS ADDRESS (RFD or street no., city, State, ZIP Code)		7. TELEPHONE NUMBER (Include Area Code.) BUSINESS _____ RESIDENCE _____	
8. APPLICANT'S BUSINESS IS <input type="checkbox"/> INDIVIDUALLY OWNED <input type="checkbox"/> A CORPORATION <input type="checkbox"/> A PARTNERSHIP <input type="checkbox"/> OTHER (Specify) _____		9. IS ANY BUSINESS OTHER THAN THAT FOR WHICH THE LICENSE APPLICATION IS BEING MADE CONDUCTED ON THE BUSINESS PREMISES? (If "Yes," give the general nature of that business) <input type="checkbox"/> YES <input type="checkbox"/> NO	
10. APPLICATION IS MADE FOR A LICENSE UNDER 18 U.S.C. CHAPTER 44 AS A: (Place an "X" in column (b) of the appropriate line. Submit the fee shown in column (c) with the application.)			
TYPE*	DESCRIPTION OF LICENSE TYPE (a)	"X" (b)	FEE (c)
01	DEALER IN FIREARMS OTHER THAN DESTRUCTIVE DEVICES (INCLUDES: Rifles, Shotguns, Pistols, Revolvers, Gunsmith activities and National Firearms Act (NFA) Weapons)		\$30
02	PAWNBROKER DEALING IN FIREARMS OTHER THAN DESTRUCTIVE DEVICES		\$75
03	COLLECTOR OF CURIOS AND RELICS (Note: Omit items 11 and 12 if checked here and no other licenses are applied for.)		\$30
06	MANUFACTURER OF AMMUNITION FOR FIREARMS OTHER THAN AMMUNITION FOR DESTRUCTIVE DEVICES OR ARMOR PIERCING AMMUNITION		\$30
07	MANUFACTURER OF FIREARMS OTHER THAN DESTRUCTIVE DEVICES		\$150
08	IMPORTER OF FIREARMS OTHER THAN DESTRUCTIVE DEVICES OR AMMUNITION FOR FIREARMS OTHER THAN DESTRUCTIVE DEVICES, OR AMMUNITION OTHER THAN ARMOR PIERCING AMMUNITION (NOTE: Importer of handguns and rifles, see item 10 of instruction sheet)		\$150
09	DEALER IN DESTRUCTIVE DEVICES		\$3000
10	MANUFACTURER OF DESTRUCTIVE DEVICES, AMMUNITION FOR DESTRUCTIVE DEVICES OR ARMOR PIERCING AMMUNITION		\$3000
11	IMPORTER OF DESTRUCTIVE DEVICES, AMMUNITION FOR DESTRUCTIVE DEVICES OR ARMOR PIERCING AMMUNITION		\$3000
MAKE CHECK OR MONEY ORDER PAYABLE TO THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS			TOTAL FEES \$
*NOTE: Applicants intending to engage in business relating to NFA weapons (including destructive devices and ammunition for destructive devices) are required to pay a special (occupational) tax before commencing business (26 U.S.C. 5801). For information, contact the NFA Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226.			
11. HOURS OF OPERATION OF APPLICANT'S BUSINESS		12. ARE THE APPLICANT'S BUSINESS PREMISES OPEN TO THE GENERAL PUBLIC DURING THESE HOURS? <input type="checkbox"/> YES <input type="checkbox"/> NO (If "No," give explanation on separate sheet.)	
Time	Sunday	Monday	Tuesday
Open			
Close			
Wednesday	Thursday	Friday	Saturday
13. IS APPLICANT PRESENTLY ENGAGED IN A BUSINESS REQUIRING A FEDERAL FIREARMS LICENSE? (If "Yes," answer 14.) <input type="checkbox"/> YES <input type="checkbox"/> NO		14. PRESENT LICENSE NUMBER	
15. DESCRIBE SPECIFIC ACTIVITY APPLICANT IS ENGAGED IN, OR INTENDS TO ENGAGE IN, WHICH WILL REQUIRE A FEDERAL FIREARMS LICENSE (e.g., dealer in rifles, shotguns, revolvers, gunsmith, dealer in machine guns, etc.)			
IF BUSINESS OBTAINED FROM SOMEONE ELSE GIVE			
16. NAME		17. LICENSE NUMBER	

18. LIST BELOW THE INFORMATION REQUIRED FOR EACH INDIVIDUAL OWNER, (sole owners must include themselves), PARTNER, & OTHER RESPONSIBLE PERSONS (see instruction 7) IN THE APPLICANT BUSINESS INCLUDING ALL NAMES KNOWN BY, ALIASES, NICK NAMES & PREVIOUS MARRIED NAMES IF A FEMALE, LIST GIVEN NAMES & MAIDEN, IF MARRIED, e.g., "MARY ALICE (SMITH) JONES," NOT "MRS. JOHN JONES." (If additional space is needed, use a separate sheet.)				
FULL NAME	POSITION AND SOCIAL SECURITY NO.	HOME ADDRESS (Include ZIP Code)	PLACE OF BIRTH	DATE OF BIRTH
19. HAS APPLICANT OR ANY PERSON LISTED ABOVE (If "Yes," place an "Y" by the name and show name on license, city and State at the right)			YES NO	NAME ON LICENSE
A. HELD A FEDERAL FIREARMS LICENSE				
B. BEEN DENIED A FEDERAL FIREARMS LICENSE				CITY
C. BEEN AN OFFICER IN A CORPORATION HOLDING A FEDERAL FIREARMS LICENSE				STATE
D. BEEN AN EMPLOYEE RESPONSIBLE FOR FIREARMS ACTIVITIES OF A FEDERAL FIREARMS LICENSEE				
GIVE FULL DETAILS ON SEPARATE SHEET FOR ALL "Yes" ANSWERS IN ITEMS 20 & 21				YES NO
20. IS APPLICANT OR ANY PERSON NAMED IN ITEM 18 ABOVE	A. CHARGED BY INFORMATION OR UNDER INDICTMENT IN ANY COURT FOR A CRIME PUNISHABLE BY IMPRISONMENT FOR A TERM EXCEEDING ONE YEAR			
	B. A FUGITIVE FROM JUSTICE			
	C. AN ALIEN WHO IS ILLEGALLY OR UNLAWFULLY IN THE UNITED STATES			
	D. UNDER 21 YEARS OF AGE			
21. HAS APPLICANT OR ANY PERSON NAMED IN ITEM 18 EVER	E. AN UNLAWFUL USER OF OR ADDICTED TO MARIJUANA OR ANY DEPRESSANT, STIMULANT OR NARCOTIC DRUG, OR ANY CONTROLLED SUBSTANCE			
	A. BEEN CONVICTED IN ANY COURT OF A CRIME PUNISHABLE BY IMPRISONMENT FOR A TERM EXCEEDING ONE YEAR			
	B. BEEN DISCHARGED FROM THE ARMED FORCES UNDER DISHONORABLE CONDITIONS			
	C. BEEN ADJUDICATED AS A MENTAL DEFECTIVE OR BEEN COMMITTED TO ANY MENTAL INSTITUTION			
D. RENOUNCED HIS CITIZENSHIP HAVING BEEN A CITIZEN OF THE UNITED STATES				
22. CERTIFICATION: Under the penalties imposed by 18 U.S.C. 924, I declare that I have examined this application and the documents submitted in support thereof, and to the best of my knowledge and belief, they are true, correct and complete.				
SIGN HERE		TITLE		DATE
FOR ATF USE				
23. APPLICATION IS		REASONS FOR TERMINATED OR DISAPPROVED APPLICATION		
<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED*				
<input type="checkbox"/> TERMINATED*				
*LICENSE FEE WILL BE REFUNDED BY THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS				
SIGNATURE OF LICENSING OFFICIAL			DATE	
<small>Information - A formal accusation of crime made by a prosecuting attorney, as distinguished from an indictment presented by a grand jury. *A YES answer is required if the judge could have given a sentence of more than one year. You may answer NO if (a) you have been pardoned for the crime or (b) the conviction has been expunged or set aside or (c) your civil rights have been restored AND you are not prohibited from possessing or receiving any firearms under the law where the conviction occurred.</small>				

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* The Chinese armed forces exported close to 2 million guns to the United States from 1989 through 1991 and set up or bought a number of companies here in an effort to earn hard currency and obtain American technology for military use, according to U.S. officials and documents.

* Acting aggressively on a 1987 White House decision to allow Chinese arms imports, Beijing's army already has become the largest foreign supplier of small arms to the American market, according to documents supplied by the Treasury Department's Bureau of Alcohol, Tobacco and Firearms.

* The move into the United States is indicative of the growing power and confidence of the Chinese military, which over decades has evolved from a guerrilla army into a well-equipped military of 3 million, say specialists here.

* Between 1989 and 1991, according to statistics obtained from the Treasury's arms bureau through a Freedom of Information Act request, 1.92 million Chinese weapons and thousands of tons of ammunition were brought into the United States. While complete 1992 statistics on imported Chinese weapons are not yet available, they appear to surpass 1991, a record year, U.S. Customs Service sources added.

* One of the Chinese-made guns, an AK-47 semiautomatic manufactured by a huge defense firm, China North Industries, or Norinco, was used by a gunman to kill two people and wound three others in front of CIA headquarters on Jan. 25. "Chinese guns are flooding the market," said a high-ranking official of the Treasury's arms bureau. "They're the K mart of weapons manufacturers."

In the United States, businesses owned by the People's Liberation Army, as China's armed forces collectively are known, import pig iron, basketballs, bicycles, car jacks, barbells, silk jackets and negligees from factories in China. Additional companies are seeking to buy American businesses, especially those specializing in high technology.

In a move that has concerned some U.S. military officials, one firm linked to the military, China National Aero-Technology Import-Export Corp., established a small airplane parts manufacturing company near Seattle after its attempt to buy a similar but larger firm was stopped by the Bush administration because of security concerns in 1989.

FBI agents and private investigators say companies owned by China's army - which are active in at least seven states - are believed to be contributing the bulk of their profits here to China's military modernization drive.

The drive, which aims to turn China into Asia's premier power in the next century, was begun by China's senior leader Deng Xiaoping in the 1980s. It recently received a boost when a leading advocate of a stronger military, Gen. Liu Huaqing, took over the important Central Military Commission, similar to the Joint Chiefs of Staff in the United States.

FBI agents and American businessmen with knowledge of the companies say profits are also being used by corrupt officers to pad bank accounts abroad, a common occurrence in China. Other earnings appear earmarked to strengthen China's internal security apparatus, which, following the massive pro-democracy demonstrations of 1989, is also working to upgrade its forces.

- * A firm with ties to China's main internal strike force, for example, has been operating near Detroit since March 1989. In 1991, it reported annual sales of \$4.5 million, mostly in Chinese weapons and ammunition, according to financial records. Sales last year appeared to be up.

According to documents provided by a source in the Customs Service, the firm, CJA Equipment Import and Export Co., imported 788 tons of ammunition and more than 20,000 guns in the first eight months of 1992.

Chief among the guns was the SKS semiautomatic rifle, a popular collectors' item in the United States. During the Vietnam War, China shipped vast numbers of the SKS to North Vietnam.

The CJA firm does the bulk of its business with China Jing An Co., which, according to a U.S. Defense Intelligence Agency report, is owned and controlled by the People's Armed Police, China's main anti-riot force.

CJA's president, Sui Chan, said his company did much business with China Jing An Co. but was not owned by it. He declined to answer further questions. "We are an independent business," he said.

- * "The main reason the Chinese go into business in the United States is to make dollars," said T. Van Magers, a specialist on China and assistant section chief of the FBI's Intelligence Division. "That money can be used for any number of things - buying restricted technology, importing Mercedes-Benzes or running operations abroad."
- * The move by Chinese military firms into the United States - which started in the mid-1980s - has occurred with little or no public debate in this country. The United States began allowing China to sell weapons here in 1987 in what officials have described as primarily a business decision.
- * At the time, American firms were selling weapons and weapons-related technology to China, and the Chinese demand for access to the U.S. market was seen as fair reciprocity. After the 1989 crackdown on pro-democracy demonstrators in China, the Bush administration stopped U.S. weapons sales to China, although it continued to allow Chinese military firms to operate and to sell their weapons in the United States.
- * "Foreigners have rights to set up companies in this country as long as they function according to U.S. law," a State Department official said. "There is not an overriding foreign policy interest here."

However, some analysts argue that the United States should

consider whether it wants to be in the position of aiding China's military modernization.

- * "The Chinese military is pretty much doing anything it can to make money so they can get the dollars back to China, so they can buy things primarily that the United States won't sell them," said
- * Wendy Frieman, a specialist on the Chinese military for a Virginia-based think tank, Science Application International Corp. "Opening businesses in the United States gives the defense firms a window into the United States."

While not currently considered a threat to American interests, China is flexing its muscles in Asia. Within the last year, for example, Beijing has rekindled a war of words with Vietnam and other countries bordering the South China Sea over the disputed ownership of the Spratly Islands chain, believed to be rich in offshore oil. And recent reports say China is seeking either to build or purchase an aircraft carrier.

- * June Dreyer, a professor of political science at the University of Miami who often writes on the Chinese military, said she also has concerns about the firms being used to collect intelligence or obtain restricted technology here.

"I do think that there is an intelligence facet to this business," she said. "The more offices these companies open up, the more difficult it will be to control."

In early 1989, one firm tied to the military, China National Aero-Technology Import and Export Corp., or CATIC, bought an American aerospace company, Mamco. But in July of that year, President Bush forced CATIC to divest. Mamco, near Seattle, supplied tail and wing assemblies to Boeing, the principal American aerospace firm. At the time, the White House said CATIC's "continued control of Mamco might threaten to impair national security."

However, several months later, CATIC established a smaller company in Seattle called Queen Tech USA, which also supplies airplane parts to Boeing, according to Zhang Bishu, Queen Tech's president.

Zhang, who confirmed that the company is owned by CATIC, said it currently produces in China airplane parts - including vertical fins and cargo doors - for Boeing planes and plans to start production in the United States "soon." The firm is also seeking to invest in the United States, preferably in high-technology fields, he said.

"We learned our lesson from Mamco," Zhang said. "Next time we will do it better."

According to a Defense Intelligence Agency report, China's defense industry is divided into two parts: "the uniformed services of the People's Liberation Army under direction of the Military Commission, and the defense-related industrial ministries under direction of the State Council" - China's cabinet.

Firms like China North Industries, which in the 1980s had tank and artillery manufacturing plants in Iraq, and CATIC belong to the former category, while China Jing An and another firm also active in the United States, Polytechnologies Inc., belong to the latter.

Linking the two categories is a powerful organization called the Commission on Science, Technology and Industry for National Defense. Its director is Deng Nan, the daughter of Deng Xiaoping.

- * Among the Chinese defense firms in the United States, Norinco



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appears to have the largest operation, which includes at least two wings - one based in New Jersey and the other in California. Norinco's glossy 1993 export catalogue hawks tanks and rocket-propelled grenades and boasts about the firm's American connection.

"China is the inventor of powder and rocket with long history of ordnance production and application," it reads, somewhat ungrammatically. "Norinco has founded a lot of overseas joint ventures or cooperative companies as well as exclusively invested enterprises through direct investment in such countries and regions as USA, FRG {Germany}, UAE {United Arab Emirates}, Singapore and Hong Kong, etc."

Zhang Xiaochuen, the vice president of the New Jersey-based NIC International, a Norinco-owned firm with offices in New York and Seattle, said his firm sells "basketballs, truck springs, silk jackets, cotton textiles and wants to do lots more trading."

"When we get enough money, maybe we'll invest," he said. "We'll probably go high-tech. That is a very good market in China."

J.L. Chan, a vice president with China Sports, a California-based firm, said his company also is related to Norinco and does a good business in small-weapons sales, once exporting "several thousand" sporting rifles to a "Latin American country" several years ago. He declined to supply further details.

"We recently began shipping Norinco motorcycles to Mexico," he said. "It's a good business."

U.S. Customs documents show that in the first nine months of 1992, China Sports imported 874 tons of ammunition and about 15,000 guns, including handguns and SKS semiautomatic rifles.

Another firm, PolyUSA, is based in Atlanta and, according to law enforcement agents, is closely associated with Polytechnologies Inc., a wing of the armed forces' General Political Department. The parent company has been implicated in the sale of Silkworm missiles to Iran in the 1980s and is run by He Ping, Deng's son-in-law. The Bureau of Alcohol, Tobacco and Firearms' statistics show that PolyUSA imported more weapons into the United States from 1989 to 1991 than any other single Chinese-owned firm: 361,354.

Staff researcher William Hifner contributed to this report.

@CAPTION:Chinese-made AK-47 with folding stock is typical of thousands exported to the United States.

@Art: PHOTO,,twp

@Slug: A01CHI

End of Story Reached



